COUNTY GOVERNMENT AND ADMINISTRATION

IN ALABAMA

DISSERTATION

Presented in Partial Fulfillment of the Requirements
for the Degree Doctor of Philosophy in the
Graduate School of The Ohio State
University

By

JAMES DANNELLY THOMAS, JR., B. S., M. S., M. A.

*****

The Ohio State University
1958

Approved by

[Signature]

Adviser
Department of Political Science
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INTRODUCTION

Counties are political subdivisions of the American states, organized to assist in the local administration of state functions. There are more than 3,000 counties in the United States; and, considering the corresponding units in Louisiana (known as parishes) as counties, they are found in every state. The number of counties varies widely from state to state — ranging from three in Delaware upward to 254 in Texas. Variations in the area, population, and taxable resources of counties, and in the structure and responsibilities of county government are equally as broad.

Counties exist primarily as units of rural local government, in contradistinction to municipalities, which serve principally as units for urban local government. The county, moreover, functions as the agent of the state in carrying out state policy; the municipality exists primarily as an instrument for the satisfaction of local needs. County government is least important in the New England states, where the town is the principal unit of rural local government, and is most important in the South and West. It reaches its nadir in Rhode Island, where counties serve only as judicial districts. In the Middle West, counties and townships share responsibility for rural local government.
Forms of county government differ not only from state to state, but often among counties within the same state. In spite of such differences, the governments of most counties may be said to conform to a broad pattern. Separation of powers is not practiced at the county level. Thus there is no separate legislative body, and (characteristically) no chief executive corresponding to the governor of a state or the mayor of a city. Both legislative and administrative powers are vested in an elective county board, which, in a limited sense, functions as the county governing body. As such, the county board has control of the finances and property of the county and performs some administrative duties (notably in connection with elections and public works), but exercises little supervisory control over the general administration of county affairs.

In addition to the governing body, the county government is composed of a number of separate officers, boards, and commissions charged with responsibility for the administration of specific county functions. Among the more important of the county officers are the sheriff, prosecuting attorney, coroner, recorder of legal instruments, tax assessor, tax collector, auditor, treasurer, and superintendent of schools—all of whom are nearly always popularly elected. The existence of special boards and
commissions, over which the county board often exercises no real control, further diffuses responsibility for the county's government.

Counties have been traditionally responsible for the local performance of such functions as judicial administration, law enforcement, road and bridge construction and maintenance, recording of legal instruments, property tax administration, poor relief, election administration, and education administration. But in recent years they have been authorized to engage in many additional activities, including functions in connection with agriculture, public health, conservation of natural resources, recreation, libraries, airports, and a comprehensive program of public welfare. As a result of population shifts in the past several decades many counties have become highly urbanized. These counties now provide to the inhabitants of unincorporated territory many services once considered wholly municipal in character, including fire protection, garbage disposal, and public utility services. Additionally, they may engage in such other municipal activities as planning and zoning and the development of public housing.

It should be noted that there has occurred a shifting of responsibility from the county to the state for the control of activities formerly considered local in scope. This development is particularly evident with respect to
the highway and welfare functions, and, to a lesser extent, education, health, and law enforcement. But the county has been a beneficiary as well as a victim of centralization. In some instances, such traditional township functions as property assessment, education, and road administration have been transferred to the county level. On balance the county has probably gained from the assumption of new activities more than it has lost to other governments and special districts. The American county, therefore, seems functionally more important today than it ever has before.

Some 40 years ago, H. S. Gilbertson wrote an interesting and revealing book in which he characterized county government as "the dark continent of American politics." In his book, Gilbertson pointed out the complex nature of county government, and noted that few people really understood this area of American government. Since then, a number of studies have been made of the organization and functioning of county government, and these studies have shed a great deal of light on the former dark continent. As a result of this activity it has become apparent that county government is subject to a number of serious weaknesses. Most students seem to agree that there are too many counties, that the structure of county government is badly in need of reorganization, and that there is a pressing need for the rationalization of government in
metropolitan areas. Such problems as these have seriously impaired the governmental capability of counties, thereby contributing to the transfer of important county functions to other governments. If counties are to retain their position in the American system of government, improvement must be made in these and other problem areas of county government.

Although progress has been slow in county government, highly important improvements have nevertheless been made in individual counties. In a few notable instances, counties have been consolidated either with large cities located within them or with other counties. The lack of a chief executive is probably the greatest structural defect in county organization, and in a few counties a manager or other executive officer has been established. The general extension of such reforms, coupled with improvement in administrative technique, could produce county governments capable of functioning with a maximum of administrative effectiveness.

The pages which follow deal in detail with the problems and developments noted above, as they relate to Alabama county government. Although counties constitute an important element of Alabama government, little is known of their operations and administrative organization. This description of county government is designed to make
available basic information not easily found elsewhere, and, by increasing public understanding, to strengthen this particular area of democratic government.
CHAPTER I

PHYSICAL CHARACTERISTICS OF THE ALABAMA COUNTY

County boundaries; creation of new counties. The county in Alabama, as in the other states, is a political subdivision of the state, with limited and delegated powers, created by the state to aid in the administration of state functions. Except as limited by constitutional provisions, the power of the state Legislature over counties is supreme. It might be supposed that the Legislature possesses a great deal of freedom in the formation of appropriate subdivisions to provide for the more effective administration of the state functions performed by county governments. But such is not the case, either in law or in practice. The Constitution of Alabama contains numerous provisions which limit the power of the Legislature over both the creation of counties and the alteration of county boundaries.

When the Alabama Constitution was framed, county boundaries were confirmed and ratified as they existed at the time of the adoption of that instrument in 1901.¹

¹ Constitution of Alabama, 1901, Article II, Section 38.

The Constitution provides for the creation of new counties,
but stipulates that no new county may be created except in accordance with the following conditions:

2. Sections 39, 40, 41, 104(11).

1. Every new county must contain at least 600 square miles of territory, and no existing county may be reduced to less than 600 square miles.

2. No new county may be formed unless it contains a sufficient number of inhabitants to entitle it to at least one representative under the ratio of representation existing at the time of its formation, and leaves the county, or counties, from which the new county is formed sufficient inhabitants to entitle the existing county, or counties, to separate representation.

3. No county boundary may be altered or established so as to run within seven miles of an existing courthouse.

4. No courthouse may be removed from an established county seat, nor may any county seat be changed, unless the change is authorized by a majority of the electorate of the county affected.

5. No county seat may be changed or located by local legislation.

The Legislature by a vote of two-thirds of each house may alter or otherwise rearrange county boundaries at its
discretion, without a referendum, so long as it conforms to these constitutional limitations.3

3. Section 39.

Physical characteristics. In 1901 when the Constitution was adopted, the state was divided into 66 counties. Houston County was created in 1903 from portions of Henry, Dale, and Geneva counties (an event provided for in the Constitution), and since 1903 the number of counties in Alabama has remained at 67. The chronology of organization of the Alabama counties is presented in Table I.

TABLE I

CHRONOLOGY OF ORGANIZATION OF ALABAMA COUNTIES

<table>
<thead>
<tr>
<th>County</th>
<th>Organization</th>
<th>County Seat</th>
</tr>
</thead>
<tbody>
<tr>
<td>Washington</td>
<td>June 4, 1800</td>
<td>Chatom</td>
</tr>
<tr>
<td>Madison</td>
<td>Dec. 13, 1808</td>
<td>Huntsville</td>
</tr>
<tr>
<td>Baldwin</td>
<td>Dec. 21, 1809</td>
<td>Bay Minette</td>
</tr>
<tr>
<td>Mobile</td>
<td>Aug. 1, 1812</td>
<td>Mobile</td>
</tr>
<tr>
<td>Clarke</td>
<td>Dec. 10, 1812</td>
<td>Grove Hill</td>
</tr>
<tr>
<td>Monroe</td>
<td>June 29, 1815</td>
<td>Monroeville</td>
</tr>
<tr>
<td>Montgomery</td>
<td>Dec. 6, 1816</td>
<td>Montgomery</td>
</tr>
<tr>
<td>Franklin</td>
<td>Feb. 6, 1818</td>
<td>Russellville</td>
</tr>
<tr>
<td>Lauderdale</td>
<td>Feb. 6, 1818</td>
<td>Florence</td>
</tr>
<tr>
<td>Lawrence</td>
<td>Feb. 6, 1818</td>
<td>Moulton</td>
</tr>
<tr>
<td>Limestone</td>
<td>Feb. 6, 1818</td>
<td>Athens</td>
</tr>
<tr>
<td>Marengo</td>
<td>Feb. 6, 1818</td>
<td>Linden</td>
</tr>
<tr>
<td>Morgan</td>
<td>Feb. 6, 1818</td>
<td>Decatur</td>
</tr>
<tr>
<td>Bibb</td>
<td>Feb. 7, 1818</td>
<td>Centerville</td>
</tr>
<tr>
<td>Blount</td>
<td>Feb. 7, 1818</td>
<td>Oneonta</td>
</tr>
<tr>
<td>Shelby</td>
<td>Feb. 7, 1818</td>
<td>Columbiana</td>
</tr>
<tr>
<td>Tuscaloosa</td>
<td>Feb. 7, 1818</td>
<td>Tuscaloosa</td>
</tr>
<tr>
<td>Dallas</td>
<td>Feb. 9, 1818</td>
<td>Selma</td>
</tr>
<tr>
<td>Conecuh</td>
<td>Feb. 13, 1818</td>
<td>Evergreen</td>
</tr>
<tr>
<td>Marion</td>
<td>Feb. 13, 1818</td>
<td>Hamilton</td>
</tr>
<tr>
<td>County</td>
<td>Organization</td>
<td>County Seat</td>
</tr>
<tr>
<td>---------------</td>
<td>--------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>St. Clair</td>
<td>Nov. 20, 1818</td>
<td>Ashville</td>
</tr>
<tr>
<td>Autauga</td>
<td>Nov. 21, 1819</td>
<td>Prattville</td>
</tr>
<tr>
<td>Butler</td>
<td>Dec. 13, 1819</td>
<td>Greenville</td>
</tr>
<tr>
<td>Greene</td>
<td>Dec. 13, 1819</td>
<td>Eutaw</td>
</tr>
<tr>
<td>Henry</td>
<td>Dec. 13, 1819</td>
<td>Abbeville</td>
</tr>
<tr>
<td>Jackson</td>
<td>Dec. 13, 1819</td>
<td>Scottsboro</td>
</tr>
<tr>
<td>Jefferson</td>
<td>Dec. 13, 1819</td>
<td>Birmingham</td>
</tr>
<tr>
<td>Perry</td>
<td>Dec. 13, 1819</td>
<td>Marion</td>
</tr>
<tr>
<td>Wilcox</td>
<td>Dec. 13, 1819</td>
<td>Camden</td>
</tr>
<tr>
<td>Pickens</td>
<td>Dec. 19, 1820</td>
<td>Carrollton</td>
</tr>
<tr>
<td>Covington</td>
<td>Dec. 7, 1821</td>
<td>Andalusia</td>
</tr>
<tr>
<td>Pike</td>
<td>Dec. 7, 1821</td>
<td>Troy</td>
</tr>
<tr>
<td>Walker</td>
<td>Dec. 26, 1823</td>
<td>Jasper</td>
</tr>
<tr>
<td>Fayette</td>
<td>Dec. 20, 1824</td>
<td>Fayette</td>
</tr>
<tr>
<td>Dale</td>
<td>Dec. 22, 1824</td>
<td>Ozark</td>
</tr>
<tr>
<td>Lowndes</td>
<td>Jan. 20, 1830</td>
<td>Hayneville</td>
</tr>
<tr>
<td>Barbour</td>
<td>Dec. 18, 1832</td>
<td>Clayton</td>
</tr>
<tr>
<td>Calhoun</td>
<td>Dec. 18, 1832</td>
<td>Anniston</td>
</tr>
<tr>
<td>Chambers</td>
<td>Dec. 18, 1832</td>
<td>LaFayette</td>
</tr>
<tr>
<td>Coosa</td>
<td>Dec. 18, 1832</td>
<td>Rockford</td>
</tr>
<tr>
<td>Macon</td>
<td>Dec. 18, 1832</td>
<td>Tuskegee</td>
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<tr>
<td>Randolph</td>
<td>Dec. 18, 1832</td>
<td>Wedowee</td>
</tr>
<tr>
<td>Russell</td>
<td>Dec. 18, 1832</td>
<td>Phenix City</td>
</tr>
<tr>
<td>Sumter</td>
<td>Dec. 18, 1832</td>
<td>Livingston</td>
</tr>
<tr>
<td>Talladega</td>
<td>Dec. 18, 1832</td>
<td>Talladega</td>
</tr>
<tr>
<td>Tallapoosa</td>
<td>Dec. 18, 1832</td>
<td>Dadeville</td>
</tr>
<tr>
<td>Cherokee</td>
<td>Jan. 9, 1836</td>
<td>Center</td>
</tr>
<tr>
<td>DeKalb</td>
<td>Jan. 9, 1836</td>
<td>Ft. Payne</td>
</tr>
<tr>
<td>Marshall</td>
<td>Jan. 9, 1836</td>
<td>Guntersville</td>
</tr>
<tr>
<td>Coffee</td>
<td>Dec. 29, 1841</td>
<td>Elba</td>
</tr>
<tr>
<td>Choctaw</td>
<td>Dec. 29, 1847</td>
<td>Butler</td>
</tr>
<tr>
<td>Winston</td>
<td>Feb. 12, 1850</td>
<td>Double Springs</td>
</tr>
<tr>
<td>Elmore</td>
<td>Feb. 15, 1866</td>
<td>Wetumpka</td>
</tr>
<tr>
<td>Crenshaw</td>
<td>Nov. 24, 1866</td>
<td>Luverne</td>
</tr>
<tr>
<td>Bullock</td>
<td>Dec. 5, 1866</td>
<td>Union Springs</td>
</tr>
<tr>
<td>Lee</td>
<td>Dec. 5, 1866</td>
<td>Opehika</td>
</tr>
<tr>
<td>Cleburne</td>
<td>Dec. 6, 1866</td>
<td>Heflin</td>
</tr>
<tr>
<td>Clay</td>
<td>Dec. 7, 1866</td>
<td>Ashland</td>
</tr>
<tr>
<td>Etowah</td>
<td>Dec. 7, 1866</td>
<td>Gadadens</td>
</tr>
<tr>
<td>Hale</td>
<td>Jan. 30, 1867</td>
<td>Greensboro</td>
</tr>
<tr>
<td>Lamar</td>
<td>Feb. 4, 1867</td>
<td>Vernon</td>
</tr>
<tr>
<td>Colbert</td>
<td>Feb. 6, 1867</td>
<td>Tuscmubia</td>
</tr>
<tr>
<td>Escambia</td>
<td>Dec. 10, 1868</td>
<td>Brewton</td>
</tr>
<tr>
<td>Geneva</td>
<td>Dec. 26, 1868</td>
<td>Geneva</td>
</tr>
</tbody>
</table>
TABLE I (contd.)

<table>
<thead>
<tr>
<th>County</th>
<th>Organization</th>
<th>County Seat</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chilton</td>
<td>Dec. 30, 1868</td>
<td>Clanton</td>
</tr>
<tr>
<td>Cullman</td>
<td>Jan. 24, 1877</td>
<td>Cullman</td>
</tr>
<tr>
<td>Houston</td>
<td>Feb. 9, 1903</td>
<td>Dothan</td>
</tr>
</tbody>
</table>

Source: The Alabama Historical Records Survey Project, Division of Professional and Service Projects, Work Projects Administration, Inventory of the County Archives of Alabama, No. 61, Talladega County (Talladega) (Birmingham, 1940), pp. 63-64. Altered by the writer to indicate present county seats.

As now constituted, the counties range in area from 545 square miles in Limestone to 1,613 square miles in Baldwin. The average area is 762 square miles, with approximately one-third of the counties falling under the minimum area of 600 square miles now prescribed by the Constitution for new counties. Nine counties are more than 1,000 square miles in area. In 1950 the populations of the counties ranged from 11,766 in Coosa to 558,928 in Jefferson, in which the city of Birmingham is located. The combined population of the three largest counties amounted to approximately 30 per cent of the total state population of 3,061,743, but 55 of the 67 counties had populations of less than 50,000. Sixteen counties contained less than 20,000 inhabitants. The median county population was 28,975. The number of county governments by population groups is shown in Table II.
TABLE II

NUMBER OF COUNTY GOVERNMENTS BY POPULATION GROUP (1950)

<table>
<thead>
<tr>
<th>Population Group</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>10,000 to 25,000</td>
<td>24</td>
</tr>
<tr>
<td>25,000 to 50,000</td>
<td>31</td>
</tr>
<tr>
<td>50,000 to 100,000</td>
<td>9</td>
</tr>
<tr>
<td>100,000 to 250,000</td>
<td>2</td>
</tr>
<tr>
<td>250,000 or more</td>
<td>1/2</td>
</tr>
</tbody>
</table>


Between 1940 and 1950 the population of the state as a whole increased 8.1 per cent. The percentage of population change for the counties ranged from a minus 23.2 per cent in Perry to a plus 62.8 per cent in Mobile. Almost 44 per cent of the population of the state is urban, but 19 counties are completely rural. In only eight counties do as many as 50 per cent of the people live in urban places. Population densities range from 15 inhabitants per square mile in Washington County to 500 inhabitants per square mile in Jefferson. The population density for the state as a whole is 60 persons per square mile. Population characteristics of Alabama counties are presented in Table III.
## TABLE III
### POPULATION CHARACTERISTICS OF ALABAMA COUNTIES
(1950 CENSUS)

<table>
<thead>
<tr>
<th>County</th>
<th>Population</th>
<th>1940-1950</th>
<th>% Increase</th>
<th>Population per square mile</th>
<th>% Urban</th>
</tr>
</thead>
<tbody>
<tr>
<td>Autauga</td>
<td>18,186</td>
<td>-13.3</td>
<td>30</td>
<td>24.1</td>
<td></td>
</tr>
<tr>
<td>Baldwin</td>
<td>40,997</td>
<td>-11.7</td>
<td>25</td>
<td>17.3</td>
<td></td>
</tr>
<tr>
<td>Barbour</td>
<td>28,892</td>
<td>-10.8</td>
<td>29</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bibb</td>
<td>17,987</td>
<td>-1.7</td>
<td>45</td>
<td>9.7</td>
<td></td>
</tr>
<tr>
<td>Blount</td>
<td>28,975</td>
<td>-19.0</td>
<td>26</td>
<td>20.0</td>
<td></td>
</tr>
<tr>
<td>Bullock</td>
<td>16,054</td>
<td>-9.9</td>
<td>38</td>
<td>23.2</td>
<td></td>
</tr>
<tr>
<td>Butler</td>
<td>29,228</td>
<td>25.6</td>
<td>130</td>
<td>54.7</td>
<td></td>
</tr>
<tr>
<td>Calhoun</td>
<td>79,539</td>
<td>-11.5</td>
<td>29</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chambers</td>
<td>39,528</td>
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Note: The percentage increase in population and urban population is calculated based on the 1940 Census data.
### TABLE III (contd.)

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<th>Population</th>
<th>1940-1950 % Increase</th>
<th>Population per square mile</th>
<th>% Urban</th>
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</table>

Alabama 3,061,743 8.1 60 43.8


**Economic characteristics.** Although the property tax has suffered a relative decline in recent times as a source of revenue, that tax still contributes the largest amounts
of local tax revenues available to county governments.\textsuperscript{4}

4. See Chapter I for a discussion of county finance.

Consequently, the ability of counties to provide the services demanded of them may be measured to a certain degree by the assessed property valuation in each county. This is particularly true in Alabama, where county property tax rates are subject to constitutional limitation but are almost uniformly levied at the maximum amounts permitted. As illustrated by Table IV, assessed property valuations for the fiscal year 1951-52 ranged from $564,284,779 in Jefferson County to $4,541,037 in Clay County. The five largest counties contributed over 50 per cent of the total assessed property valuation in the state. In regard to per capita assessed property valuations, which provide a more reliable index of the taxpaying ability of each county, Jefferson County was highest, with a per capita assessed valuation of $1010. Lawrence County was lowest, with a per capita assessed valuation of $287. The median assessed valuation per capita, for the state, was $393. Because the productivity of property taxes has failed to keep pace with the demands upon counties for services, the Legislature has increasingly authorized the counties to turn to non-property taxes as sources of additional revenue. Thus income payments within each county afford a further
indication of the wealth of the various counties. As indicated in Table IV, median family incomes ranged from $2722 a year in Jefferson County downward to $471 in Greene County. For the state as a whole, family income averaged $1,810 a year.

TABLE IV
ECONOMIC CHARACTERISTICS OF ALABAMA COUNTIES

<table>
<thead>
<tr>
<th>County</th>
<th>Land Area in sq.mi.</th>
<th>Assessed Valuation, 1952</th>
<th>Per Capita Assessed Valuation</th>
<th>Median Family Income, 1950</th>
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<td>Median Family Income, 1950</td>
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<tr>
<td>Talladega</td>
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<td>2,090</td>
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<td>711</td>
<td>20,861,757</td>
<td>595</td>
<td>2,120</td>
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<td>Washington</td>
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<td>6,524,566</td>
<td>358</td>
<td>1,209</td>
</tr>
</tbody>
</table>

Alabama 51,078 $1,814,577,363 $393 $1,810
TABLE IV (contd.)


Commentary. Analysis of the tabular information presented above provides a picture of great contrasts among the counties with respect to their physical characteristics and tax resources. For example, Jefferson County contains approximately 50 times as many people as Coosa, and possesses more than 120 times the assessed property valuation of Clay and three and one-half times the per capita assessed valuation of Lawrence. A shifting of population to the urban areas is also evident, for the counties with the largest population increases during the decade 1940-1950 are generally the most heavily urbanized counties. All but one of the completely rural counties decreased in population during the period.

Most importantly, however, the differences in population and resources indicate the varying capacities of the counties to provide the services and to perform the functions incumbent upon them. One student of local government, Arthur C. Millspaugh, suggests (1) that an administrative district should contain no less than 25,000 inhabitants to justify the economical operation of an
efficient staff; (2) that a county with a population of 20,000 or more would be most likely to have taxable re-
sources sufficient to support adequately a number of sub-
stantial functions; and (3) that the maximum area of a
county could vary, under certain conditions, from 900 to
6,400 square miles, the figure taken depending upon the
location of the county seat and its convenience to the
population. On the basis of these figures, one may

hypothesize that between one-quarter and one-third of the
Alabama counties do not possess sufficient population and
local tax resources to perform adequately the functions of
county government. It is clear that some adjustment is
necessary, either in county boundaries or in responsibility
for the performance of governmental functions, or in
sources of revenue, to provide minimal standards of ser-
vice throughout the state. In the light of Millspaugh's
conclusions, it is also clear that some consolidation could
be effectuated in Alabama with little, if any, inconveni-
ence to the people of the areas concerned.

It is generally agreed that many governmental func-
tions may be performed more economically and efficiently in
larger areas than in smaller areas. Nevertheless the
historical, social, and political forces which militate against county consolidation seem to be so powerful as to preclude, at this time, a general reorganization of county boundaries in Alabama. Since 1951, eight counties have secured the enactment of local legislation transferring to the state responsibility for local road maintenance and construction. Responsibility for financing the public welfare function was centralized in 1951, on the ground that the decentralized system failed to meet sufficiently uniformly the needs of assistance recipients in the various counties. The coroner's function is rapidly becoming centralized in the State Department of Toxicology and Criminal Investigation. Earlier, powers of supervision and control had become centralized in the case of other functions: notably, the education, health, and (to some extent) highway functions. Centralization may be expected to continue so long as the counties fail to provide adequately and economically the services demanded by their citizens. As Professor Lane W. Lancaster phrased the point: "Those who wish to preserve local self-government are agreed that no substantial amount of it can be possessed except by units able to pay their own way."6 Thus

6. Ibid., p. 53. Quoted with permission of the publisher, D. Van Nostrand Co., Inc.
far Alabama has displayed little interest in county consolidation; nevertheless, that device deserves serious consideration as one method by which to achieve a more adequate county governmental structure for the state.
CHAPTER II
THE LEGAL NATURE OF THE ALABAMA COUNTY

Legal status. "Every county," declares a section of the Alabama law, "is a body corporate, with power to sue or be sued in any court of record."

1. Section 3, Title 12, Code of Alabama (1940).

however, that this provision does not confer upon counties the status of municipal corporations, but merely clothes the counties with corporate status to enable them to perform more effectively their governmental duties. There are basic differences between counties and cities, or municipal corporations, which the courts take into consideration in determining the legal status of each of the two types of political subdivision. A municipal corporation is a voluntary association created and built upon the voluntary assent of the community and its citizens. As such it enjoys certain privileges and rights designed to enable the community better to satisfy its local needs. A county, on the other hand, is an involuntary political or civil division of the state, created by statute to aid in the administration of state functions. Because counties possess only limited delegated powers, and exist primarily as agents of the
state, they are referred to, not as municipal corporations, but as quasi-corporations.²

2. Askew v. Hale County, 54 Ala. 639 (1875); James v. Conecuh County, 79 Ala. 304 (1885); Montgomery v. City of Athens, 229 Ala. 149, 155 So. 551 (1934).

Legal liability. The fact that the courts recognize a distinction between cities and counties, and assign to counties the status of quasi-corporations, produces certain important consequences. First, the legal liability of counties is considerably less than that of cities. The courts have held that the provision of law quoted above, which states that counties may sue or be sued in any court of record, imposes no general liability upon counties.³


According to judicial opinions, the purpose of the section is to confer upon counties merely the corporate capacity to sue or be sued. It will be recalled that the county is a political subdivision of the state, created for the more effective administration of state functions. The courts have long held that a state may not be sued in its own courts except with its own consent; and the courts have
extended state immunity from suit to counties whenever they function as an arm of the state for the execution of state policy. Counties, therefore, are not usually subject to tort liability in the absence of a constitutional or statutory provision expressly declaring such liability. As it was put in a leading case on the subject of the legal liability of the county: "The capacity of suit to which the statute refers, is, in the instances, and to the extent, in which the law authorizes it to sue and be sued." 4


Where tort liability has not been imposed upon counties, persons sustaining damages caused by the negligent acts of county officers or employees must seek redress in some manner other than by suit against the county. Such redress is usually obtained in Alabama through private relief acts of the Legislature. It has also been established, however, that counties may be sued upon contracts which lie within the scope of their lawful authority. 5 Moreover,

5. See, e.g., Board of Revenue and Road Commissioners of Mobile County v. State ex rel. Drago, Sheriff, 172 Ala. 155, 54 So. 995 (1911).

where a county is authorized to engage in a proprietary function, it becomes liable in tort to the same extent as
municipal corporations. But generally, the legal liability of Alabama counties extends only to such claims and demands as the law "imposes upon them or empowers them to contract for."  


7. Board of Revenue and Road Commissioners of Mobile County v. State ex rel. Drago, Sheriff, 172 Ala. 155, 54 So. 995 (1911). The writer has seen only one instance in which counties are generally liable in tort because of the operation of a statute. Section 57, Title 23, Code of Alabama (1940), specifically imposes upon counties liability for damages resulting to travelers on the highways from defective bridges and causeways constructed under contract with the county governing body. The county is not liable, it should be pointed out, unless the bridge was constructed by a private contractor under contract with the county and the injury was the result of an actual defect in the bridge. Marshall County v. Cleveland, 218 Ala. 104, 117 So. 621 (1928); Barbour County v. Reeves, 217 Ala. 415, 116 So. 119 (1928); Phillips v. Tuscaloosa County, 212 Ala. 357, 102 So. 720 (1925). The courts have held that this statute allows recovery for damages sustained by injuries on defective bridges constructed under contract, no matter whether the bridge is erected on a public or a private road. Parks v. Jefferson County, 119 Ala. 600, 24 So. 505 (1898).

Legislative control of counties. The second important consequence of the county's status as a quasi-corporation, created for purposes of state administration, concerns the degree to which the county is subject to the control of the state Legislature. Counties possess no inherent powers of self-government; they may exercise only the powers which
the Legislature delegates to them. And the Legislature

8. Askew v. Hale County, 54 Ala. 639 (1875); Chambers County v. Lee County, 55 Ala. 534 (1876); Marengo County v. Coleman, 55 Ala. 605 (1876); State v. Page, 19 Ala. App. 303, 92 So. 244 (1923); Tuscaloosa County v. Alabama Great Southern R. Co., 227 Ala. 428, 150 So. 328 (1933).

has retained in its hands a large measure of direct control over the counties and the conduct of their affairs. The control of the Legislature over counties is not absolute, for certain restrictions have been imposed upon it in the state Constitution. But in the absence of constitutional limitation, the Legislature has plenary power to command the counties "to do what the public interest and public justice require."9


Constitutional limitations on legislative control. The present Constitution of Alabama contains numerous provisions which regulate the exercise of legislative authority over counties. Some of these provisions are directed toward prohibiting, or limiting, legislative action in specific fields; others are phrased in more general terms, and apply, principally, to local and private legislation. Among the specific constitutional restrictions upon legislative action, there may be found the following:

1. Provisions which forbid the Legislature to
to authorize counties to impose property taxes or incur indebtedness above certain prescribed maximum amounts.\textsuperscript{10}

\textsuperscript{10} Sections 215, 269, and Amendments III, LIX, and LXXXII, fix the maximum county property tax rate. Section 224 imposes the debt limitation. See Chapter I.

2. Provisions which prohibit any increase or reduction in the compensation of public officers, including county officers, during their terms of office; and which seek to maintain uniformity in the fees, allowances, and commissions of public officers, and in the costs of court proceedings.\textsuperscript{11}

\textsuperscript{11} Sections 68, 96, 104(24), 281, and Amendment XCII. See Chapter XI.

3. Provisions prohibiting the Legislature to authorize any political subdivision of the state to lend its credit, or to grant any public money or thing of value in aid of any private individual, association, or corporation, or to become a stockholder in any such enterprise.\textsuperscript{12}

\textsuperscript{12} Sections 94, 253. The Supreme Court has held, however, that the state may authorize appropriations of public funds for the payment of just and righteous demands which constitute moral obligations, though not legally enforceable. The court went on to say that appropriations for the payment of such claims were for a public purpose and were not donations and therefore violative of Section 94. \textit{Board of Revenue and Road Commissioners of Mobile County v. Puckett}, 227 Ala. 374, 149 So. 850 (1933). This case provides the constitutional basis for the passage of relief acts of the Legislature authorizing counties to
appropriate funds for the payment of compensation, for example, to persons damaged by action of the county, or, as was the situation in the Puckett Case, for compensation to the widow of a county employee killed during the performance of his official duties.

4. Certain restrictions relating to county boundaries and county seats.  


5. Provisions which regulate the enactment of legislation authorizing bond issues by political subdivisions of the state.  

14. Sections 104(17), 222. See Chapter I.  

6. An enumeration of 31 specific cases in which the Legislature is forbidden to enact special legislation but for which the Legislature must provide by general law.  

15. Section 104.  

As noted above, the general limitations on the exercise of legislative control over counties concern, principally, local and private legislation. The more important of these limitations are found in Sections 105, 106, 109, and 111 of the Constitution. Section 105 provides that no special, private, or local law, except a law fixing the time of holding court, may be enacted in any case which is
provided for by a general law, or when the relief sought can be given by the courts. The courts, rather than the Legislature, are directed to judge as to whether the matter of the law is provided for by general law, or whether the relief sought can be given by any court. Moreover, the Legislature may not enact local, special, or private legislation indirectly by the partial repeal of a general law.

Section 106 provides that no local, private, or special law may be passed, except a law fixing the time of holding court, unless notice of the intent to introduce such a law has been published, without cost to the state, in any county to be affected by the act. The notice must state the substance of the proposed law, and must be published at least once a week for four consecutive weeks in some newspaper published in the county to be affected, or, if there is no newspaper published in the county, by posting the notice for four consecutive weeks at five different places in the county before the introduction of the bill. Proof by affidavit that the requirement of notice has been met must be exhibited upon the introduction of the bill. The proof must also be entered in the legislative journals. Furthermore, the courts are directed to declare invalid every local, private, or special law which the journals do not show was passed in accordance with these requirements. Under Section 109, the Legislature must
enact general laws under which local and private interests are to be provided for and protected. Section 111 provides that no bill introduced as a general law may be so amended during its passage by the Legislature as to become a local, special, or private law.

Thus, the framers of the Constitution attempted to restrict the passage of local legislation by (1) prohibiting either general legislation or local legislation, or both, in certain specific cases; (2) declaring that no private or special law shall be passed in any case provided for by general law or where the relief sought can be given by the courts; (3) requiring notice of intent to introduce local legislation into the Legislature; and (4) directing the Legislature to enact general laws under which local and private interests are to be provided for and protected. In practice, however, these provisions have proved quite ineffective as deterrents to the passage of local legislation.

Weakening constitutional limitations. The ineffectiveness of the constitutional limitations on local legislation has been the result, first, of a general weakening of those provisions by decisions of the Supreme Court of Alabama. Some two years after the adoption of the Constitution, the gates were opened to the flood of local legislation by a decision which held that the Legislature was free to enact local legislation in cases not provided for
by general law. As a result of this decision, Section 109, by which the framers had sought to promote the passage of general laws under which local and private interests should be provided for, became a dead letter only a short while after its original incorporation into the Constitution.

Section 105, which prohibits local legislation in cases provided for by general law or where relief may be had in the courts, has suffered a similar fate, through judicial authorization of local legislation in cases not substantially provided for by general law. For example, in the case of Polytinsky v. Wilhite the court stated, "Section 105, as repeatedly held by this court, does not inhibit local legislation on subjects not enumerated in Section 104, where the object of the local law is to accomplish an end not substantially provided for or effectuated by a general law, notwithstanding there is a general law dealing with the subject or system affected by the local law." 17

17. 211 Ala. 94, 99 So. 843 (1924). Italics inserted. Section 104 contains the enumeration of 31 specific cases in which the Legislature may not enact local laws.

On another occasion the court declared, "Suffice to say it
is fully settled that this section does not forbid local legislation on subjects not prohibited by Section 104, merely because a general law deals with the same matter. If, in the judgment of the Legislature, local needs demand additional or supplemental laws substantially different from the general law, the Legislature has power to so enact. In application, therefore, Section 105 "renders a local act invalid only if it enacts that which was already the law.... If the statute makes any change in the pre-existing body of law, then the case for which it provides was not already provided for by general law and it is not affected by §105."  


The courts have also ruled that the Legislature may classify local governments according to population; and that a law based upon such a classification is general, and therefore valid, if it meets certain standards. The standards used to judge the validity of legislation enacted on a
population basis were expressed on one occasion by the Supreme Court of Alabama, as follows:

Where there is a substantial difference in population, and the classification is made in good faith, reasonably related to the purpose to be effected and to the difference in population which forms the basis thereof, and not merely arbitrary, it is a general law, although at the time it may be applicable to only one political subdivision of the state; but that if the classification bears no reasonable relation to the difference in population, upon which it rests, in view of the purpose to be effected by such legislation, and clearly shows it was merely fixed arbitrarily, guised as a general law, and, in fact, is a local law, it is then in plain violation of the Constitution and cannot be upheld.20


A further condition required by the courts is that the classification must be single, and not double or a reclassification.21


Classification is often a convenient, if not always necessary, means of dealing with local needs. But in Alabama the population bases upon which such classifications are founded are generally so severely limited as to restrict the application of the act to a single city or
While general in form, it is obvious that

22. The following title is illustrative of such legislation: "An Act To fix the compensation of the superintendent of education, commissioner of public schools, or other such officer in any county having a population of not less than 39,550 nor more than 40,000 inhabitants, according to the 1950 or any subsequent federal decennial census." Act No. 618, S. 500, Acts of Alabama, Regular Session, 1953, p. 878.

legislation enacted on the basis of a limited population classification is, in application and intent, and in fact, purely local legislation. Such laws are passed in the guise of general laws to evade either Section 104 of the Constitution, which prohibits local legislation on certain subjects, or Section 106, which requires the publication of notice of the intent to introduce a local law. The Supreme Court of Alabama has on numerous occasions invalidated legislation employing the principle of classification where such legislation has failed to meet the prescribed standards. Nevertheless, the classification of counties

23. It should be noted, however, that the court has also ruled that if a statute enacted on the basis of a population classification is valid, its validity is not affected by the fact that at the time of its enactment it applies only to one political subdivision of the state. Reynolds v. County Treasurer et al. v. Collier, 204 Ala. 38, 85 So. 465 (1920); Ward v. State, ex rel. Lea, 224 Ala. 242, 139 So. 416 (1932); Dearborn v. Johnson, 234 Ala. 84, 173 So. 864 (1937).

on the basis of limited population differentials remains a
favorite vehicle for the enactment of local legislation in Alabama.

The ineffectiveness of constitutional restrictions on local legislation is also attributable to the adoption of a number of constitutional amendments allowing the Legislature to enact local legislation on otherwise prohibited subjects in the case of particular counties. Most of these amendments have dealt with four subjects: (1) increasing the local debt limitation; (2) authorizing additional property tax levies; (3) allowing the Legislature to regulate costs and charges of court; and (4) authorizing the Legislature to regulate the compensation of county officers, thereby enabling the Legislature to abolish the fee system and place local officers on a salary.24


Local legislation. As a consequence of the weakening of the constitutional limitations on local legislation, a large part of the output of every Alabama legislative session consists of local laws and general laws of local application.25 Section 104 of the Constitution contains


prohibitions against incorporating cities and towns, or altering, amending, or extending the charters of municipalities, by local legislation; but fails to make a similar provision in regard to counties. Partially because of this factor, most of the local legislation enacted in Alabama concerns counties rather than municipalities. In its general relations with the counties, the Legislature "has not been a harsh master." But the enactment of local legislation is undertaken in such a manner and to such an extreme as to constitute perhaps the most serious and difficult problem in the area of county administration. 26

26. Ibid.

The county is the basic unit of representation in the Legislature, since members of that body are chosen either from single counties or from districts composed of contiguous counties. Because of the manner in which the legislators are elected, they feel themselves under obligation to their immediate supporters; and the influence of local interests tends to obscure their broad outlook as to the general welfare. Partly as a result of this influence, members of the Legislature tend to think of themselves as representatives of counties rather than of the whole state; many of them, in fact, appear to be interested chiefly in
the passage of local legislation applicable only to their respective counties.27


In view of the spirit of localism which characterizes the Legislature, it is not surprising to note a definite feeling among legislators that a local bill concerns only the members representing the county to which it applies, and that such a bill requires no consideration or discussion by members from other counties. Furthermore, there has developed in the Legislature a custom, known as "legislative courtesy," under which each member normally votes on local bills in the manner indicated by the member representing the county concerned. As a result of this custom, the Legislature as such does not in reality function with respect to local legislation. The county legislative delegation is in effect the legislative authority for the county.28 When a county's legislative delegation is in agreement local legislation normally is assured of passage. On occasion, however, a member of one house will oppose, and thereby defeat, a bill affecting his county which has been passed by the other house. Frequently the latter
situation indicates pressure of rival local interests or political factions upon the legislators concerned. Dominated by local interests, the Legislature tends to deal with local affairs on the basis of local laws enacted in response to specific conditions in specific counties, rather than on the basis of general legislation enacted in response to general needs. This is a factor of great importance, for it is local legislation, of course, which has caused the frequent lack of uniformity in the structure and functions of Alabama counties.

The organization of county government is provided for in the general laws of the state, but the enactment of local legislation has resulted in almost endless variations among Alabama counties with respect to such matters as forms of government, and titles, duties, and compensation of county officers. Offices are frequently abolished, established under some other title, and perhaps later re-established in their original form. Changes in county administrative organization are sometimes made in accordance with sound organizational concepts, and perhaps reflect a praiseworthy regard for administrative reform. But the ease with which local legislation is passed makes that device an effective means by which personal and political interests may also be served. The explanation of organizational changes, therefore, often lies in the personal
motivations of, or the play of local political forces upon, the individual members of the Legislature. Thus, county organization is not always based on administrative considerations but frequently becomes "the football of factionalism." 29


The exercise of legislative control through a mass of uncodified, uncoordinated laws of local application has resulted in the failure to establish in Alabama a satisfactory foundation for county government. The legal basis of county government is extremely unstable, responsibility for the control of county affairs is confused, and the people are unable readily to determine or understand the county administrative organization of their state. The state is badly in need of an effective means by which to curb the passage of local legislation and to place county government upon a firmer legal foundation. For many years informed thought in the state has been aware of the disadvantages inherent in the passage of excessive amounts of local legislation, and various proposals have been advanced, unsuccessfully, as remedies for the problem. Ultimately, the successful adoption of any such proposal depends upon a change in the attitude of the Legislature
toward its relationship with the counties. Substantial improvement in legislative control of county government may not be expected, therefore, until the Legislature subordinates its local interests to the interests of county government in its general aspects.
CHAPTER III
ELECTIONS, PARTIES, AND POLITICS

The counties of Alabama play an important role in the conduct of elections and in the organization of political parties. Responsibility for performing the important functions of registering voters and holding and conducting elections is divided among a number of the county officials. As in the other states, the counties of Alabama form the "grass roots" of party organization. However, the role of the party machinery is quite different from that in states operating under a two-party system of party government.

PARTIES AND POLITICS

Party organization. The organization of political parties in Alabama is similar to that which generally prevails over the nation as a whole. As in the other states, the formal party machinery consists of a series of state and local committees which parallel the governmental units for which officers are elected. The state executive committee stands, of course, at the apex of the party hierarchy. In addition to the state committee, the political party may establish an executive committee for each county and municipality within the state. If a committee is not
chosen for any county, the state committee may exercise the powers and duties vested in the county committee, or the state committee, or its chairman, may appoint a county committee to act until a county committee is chosen. If a committee is not chosen for any municipality, the powers and duties vested in the municipal committee may be exercised by the executive committee of the county in which the municipality is located.\footnote{1}

\footnote{1}{Sections 341, as amended, and 342, Title 17, \textit{Code of Alabama} (1940).}

The Republican party is not organized in every county of the state, but where both parties do exist each is organized in a similar fashion. Normally, each voting precinct within the county elects a representative to the county executive committee. Each county committee chooses its own chairman. The chairmen of the county committees direct the activities of the county political organizations, sometimes in accordance with information or directions received from the chairman of the state committee. Under the Constitution of Alabama, primary elections may not be made compulsory.\footnote{2}{Section 190.} For this reason, the state law governing

\footnote{2}{Section 190.}
elected at primaries unless the state executive committee directs their selection otherwise. Thus, the parties may utilize other methods than primaries for the selection of party officers, and therein lies the essential difference in organization between the Democratic and Republican parties in Alabama. Republican committees are normally chosen in mass meetings or conventions; Democratic committees are normally elected in the primaries. Similarly, the Democratic candidates for county offices are regularly elected in the primaries. Republican candidates are normally selected in mass meetings, but in a few northern counties the Republicans sometimes hold primaries for the nomination of their candidates.

Many upland counties of northern Alabama are populated by a number of Republicans of the type described by Professor V. O. Key as "Mountain Republicans." In all of these counties there are relatively few Negroes. Their populations consist largely of small farmers. Philosophically, the modern Mountain Republicans descend from the small, upland farmers who generally opposed secession and sympathized little with the cause of slavery. During the Civil War some of the northern counties became strongholds of Union sentiment in Alabama. Partisan feelings ran high
in such counties, and bitter fighting sometimes broke out between Unionists and Confederates. After the war many of the upland farmers affiliated with the Republican party, and they have identified themselves with that party ever since. But the state as a whole is traditionally—and preponderantly—Democratic in party affiliation. Consequently, it is only in a few northern counties that the Republicans offer candidates for county offices, and only in Winston County are Republican officials regularly elected.


The role of the party machinery. The Democratic party maintains in Alabama the organizational apparatus characteristic of parties outside the South, and performs many of the same functions as parties in two-party states. But, as Key points out, "in the performance of these functions the party operates in a different context than does a party in a dual-party system, and party organization or party nominations are usually quite different in reality though in
name they may be the same."^ Lacking opposition from the

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Republicans, the Democratic candidates usually win in the
general elections with little or no effort on the part of
the party organization; and securing the Democratic nomi­
nation is tantamount to election. Thus, in effect, the
Democratic primary becomes the general election, and the
Democratic party organization operates merely as a neutral
framework for intraparty factional and personal competition
for the public offices.7

7. Ibid., pp. 386-392. See, also, Ranney and

County politics. In a factional situation, where the
party organization plays no part in obtaining voter sup­
port for its candidates, political leaders must establish
their own machinery for reaching the voters. This in­
formal machinery is highly complex, consisting, as Key says,
"of all the centers of influence within the electorate that
can be attached to the cause of a particular leader."^8

8. Op. cit., pp. 52-53, Quoted with permission of
the publisher, Alfred A. Knopf, Inc.
strong tendency toward localism are important elements of county politics in Alabama. Such factors as topography and soil productivity cause geographical divisions within counties, and county politics often reflects an intense rivalry between or among such divisions. Where there are but two principal cities located within a county, the competition between them is generally keen for the spoils of office. In other counties the division may involve the county seat against the remainder of the county, or perhaps the upland sections of the county against the lowlands.


10. For other examples of such divisions, see Karl A. Bosworth, Tennessee Valley County (University, Alabama, 1941), Chapter II; also, Karl A. Bosworth, Black Belt County (University, Alabama, 1941), Chapter II.

Oftentimes, these various regions will advance "favorite son" candidates for office. Regardless of the exact nature of the division within the county, candidates must usually obtain support in several regions to gain success at the polls.

The campaign methods utilized depend upon the individual candidate and the office to which he aspires. But such methods consist primarily of the dissemination of campaign
cards, posters, and handbills; the use of newspaper advertisements; speechmaking at political rallies, barbecues, or picnics held in the rural communities; and personal solicitation. Radio and television are rarely used in county elections, except in the most urbanized counties. The location and maintenance of public roads and the "wet-dry" question (under the state's local option system of liquor control) are probably the greatest political issues at the county level. Where no candidate for an office receives a majority of the votes cast at the first primary, a "run-off" becomes necessary. In such an event, the "favorite sons" drop out; and a second election is held a month later between the two candidates standing highest in the voting in the first primary.

Incumbents are frequently able to perpetuate themselves in office for a considerable period of time. This is particularly true with respect to the judge of probate, especially where he is chairman of the county governing body. In Coffee County, for example, there had been only four incumbents in the office of judge of probate during the 63 years preceding the year 1941. In the black-belt county analyzed by Karl A. Bosworth, there had been only four incumbents in the office of judge of probate between 11.
the years 1886 and 1941. Bosworth further observed that
the office of tax assessor had changed only once in the
county in 36 years (and that on the occasion of a revolt
against a "Hooverocrat"); that during the same period tax
collectors had left office in this county only with the
discovery of shortages in their funds, and that in each of
two such cases the person appointed to fill out the unex­
pired term had been elected and reelected.12

12. Black Belt County, p. 11.

But the Jacksonian attitude is more prevalent in the
northern counties, and tenure in office tends to be shorter
there than in the southern regions of the state. Writing
in 1941, Bosworth observed that in a Tennessee Valley
county no judge of probate had succeeded himself since
1910. No circuit clerk had succeeded himself since 1918,
and no tax assessor since 1914. Only three of eight tax
collectors had been re-elected since 1900. County commis­sioners fared no better than the other officers.13 Clay


County affords another illustration of a northern county in
which voter independence is quite evident:

Long tenure in office is relatively uncommon in
Clay County. The voters believe in, and evidently
practice, rotation in office, or as they sometimes
say locally, "turning one set of sinners out and another set in." Moreover, it is said that the surest way for a candidate to lose an election is to have an office-holder actively support him. Such support by a person already in office brings out "court-house ring" talk, which seems to be particularly distasteful to the voters; and it hurts not only the person who has received support from the office-holder, but the office-holder as well.14


The chief figure in the government of almost every Alabama county is the judge of probate. As explained more fully in Chapter IV, this officer is responsible for the performance of a number of important functions, and in the performance of his numerous duties he makes his influence felt throughout the county government. Where the judge of probate serves as chairman of the county governing body, as he does in more than half of the counties, the office may become especially potent. Through the judicious use of his many powers and duties, he is normally able to build up political influence and attain for himself a commanding position in county politics. It should be noted, however, that the prestige of the office varies considerably from county to county. Where the incumbent is unable or unwilling to provide forceful leadership, the potency of the office necessarily deteriorates. But the office of probate
judge stands at the apex of county politics in Alabama, and in almost every county constitutes perhaps the most powerful single political force within the county.  

15. See Key, op. cit., pp. 53-54. For an illustration of a situation in which the center of influence passed from the judge of probate to the county commissioners, see Reed, op. cit., pp. 34-36.

According to the conventional view of southern politics, the Democratic party constitutes "a state-wide machine firmly based on county rings." This is perhaps true in Virginia; but in Alabama, as in most southern states, "the county machines, such as they are, play a more independent role." The county officials may organize to promote the election of members of their group, but in no real sense do the county political organizations in Alabama constitute a machine dedicated to the election of various state officials. On occasion a county officer or candidate will ally himself with a statewide candidate. But in order to do so safely, he must guess right as to the outcome of the election. Otherwise, he may find himself in the unenviable position of having supported a losing candidate. Moreover, such an alliance may also alienate some of the county officer's own supporters who favor other
candidates. The individualistic nature of Alabama politics thus causes local candidates and officials almost universally to refrain from openly taking an active part in state races.\textsuperscript{17}

\textsuperscript{17} Cf., ibid., pp. 53-55, 404.

The role of the political party in Alabama also fails to conform to other conventional views of party government. According to the traditional view of the American party system, political parties perform a number of useful functions in addition to nominating candidates for office. They serve as a channel of communications between the people and their government; the party in power acts as a guarantor of the conduct of its officeholders; and the party out of power serves as a check on the actions of the party in power. But in a one-party state such as Alabama the dominant party, having had nothing to do with electing the candidates to office, can hardly function as a responsible guarantor for their conduct. The opposition party, because of its minority status, has little influence as a check or critic. Moreover, the party does not normally function in Alabama as a channel of communications between the people and their government. Public officials are widely known within the counties, and the people prefer to deal directly with them. Pressure from constituents is
perhaps greatest in the areas of highway administration, tax assessment, and law enforcement. Nevertheless, the people's proximity to their government influences almost every action taken by the officials in the courthouse.

ELECTION ADMINISTRATION

Registration of voters. In order to vote at elections for public officers in Alabama a person must be qualified as an elector by registration and by payment of a poll tax. Voter registration is a state function administered locally by largely autonomous county boards of registrars. The board of registrars in each county consists of three "reputable and suitable" electors of the county, appointed by a state board of appointment composed of the Governor, the State Auditor, and the Commissioner of Agriculture and Industries. The registrars serve at the pleasure of the appointing board, and may be summarily removed by the board at any time; but if not so removed (and they rarely are removed), registrars serve for a period of four years from the date of their appointment. The law

18. For a more extensive discussion of this subject, see the study by Professor Donald S. Strong, Registration of Voters in Alabama, published in 1956 by the Bureau of Public Administration of the University of Alabama.

governing the appointment of registrars apparently contemplates their selection by the appointing board functioning as a board, but in practice each member of the appointing board normally appoints one registrar in each county. It is also customary for each member of the appointing board to appoint all three registrars in his home county. The appointments of registrars are almost always made on the recommendation of the legislative delegation from each county.  

20 Strong, op. cit., pp. 4-6.

The practice of personal registration is followed in Alabama, and the boards of registrars meet at specified times throughout the year for this purpose. As Professor Donald Strong phrased the point, "So little about the registration process in Alabama is simple and uniform that not even the day of the year when one may register can be stated simply in one sentence. Registration days are not the same for odd-numbered years as for even, and some half-dozen counties are governed by local laws." 21 It may be said, however, that except for the larger counties of Jefferson, Mobile, Montgomery, Tuscaloosa, Etowah, Calhoun, and Madison, where special laws prevail, the boards of
registrars meet for ten days each January, for five days in
July, and on the first and third Mondays in each month. In
addition to these meetings, the boards must visit the pre-
cincts within their respective counties during the months of
October through December in the odd-numbered years, for the
purpose of registering voters; but the registrars may not
consume more than 30 working days in registering voters in
this manner. One further requirement is that the boards
may not register any person as a voter during the ten-day
period immediately preceding an election. Although pre-
cinct visitation was undoubtedly a useful practice in
earlier times, it has little success today as a stimulant
to voter registration. Recognizing this fact, the legisla-
tive delegations of several counties have secured the en-
actment of local legislation to abolish precinct visitation
in their counties. Such laws generally require the boards
of registrars to meet at the courthouse during the time
prescribed by general law for precinct visitation.22 The

22. Ibid., pp. 15-17, citing Sections 26, 27, Title 17, Code of Alabama (1940), as amended, and Act No. 6,
Fourth Special Session, 1950, Acts of Alabama, 1950-51,
p. 45. In the larger counties mentioned above, where local
laws prevail, the boards of registrars either meet for con-
tinuous sessions of varying lengths of time or otherwise
operate under a more flexible schedule than that prescribed
by general law. Ibid., pp. 18-19.

irregular nature of the work necessarily restricts the
membership of the boards of registrars to those who can afford to work at odd intervals. Consequently, the boards are composed primarily of retired men, housewives, widows, and the self-employed. Board members receive compensation in the form of a per diem (now $10.00), payable by the state.

As in the other states, a person must meet certain requirements of age, citizenship, and length of residence in order to qualify as an elector. In Alabama no person is entitled to vote unless he is at least 21 years of age, is a citizen of the United States, and has resided in the state at least two years, in the county one year, and in the precinct or ward three months, immediately preceding the election at which he offers to vote. In addition, he must have paid all poll taxes due from him for the two years next preceding the election. Idiots, insane persons, and persons convicted of certain crimes are disqualified both
from registering and from voting. A constitutional

25. Section 182, Article 8, Constitution of Alabama, 1901.

amendment adopted in 1951 contains the further require­
ments that voters must be able to read and write in the
English language any article of the Constitution of the
United States which may be submitted to them by the board
of registrars, must be persons of good character, and must
embrace the duties and obligations of citizenship under the
Constitution of the United States and under the Constitu-

26. Amendment XCI.

The registrars interview applicants desiring to regis-
ter as voters, to determine whether they possess the neces-
sary qualifications. The constitutional amendment of 1951,
referred to above, requires the applicant to complete, in
writing, in the presence of the board and without assistance,
a questionnaire designed to provide the board with the in-
formation necessary to determine his qualifications. The
questionnaire is a formidable instrument, consisting of 21
questions prepared by the justices of the state supreme
court. There is no official set of answers; the regis-
trars are the sole judges of the sufficiency of each
applicant's answers. The registration process varies considerably from county to county, but in all counties the administration of the questionnaire constitutes a major portion of the board's duties. Registration is at the discretion of the board, but any person denied registration may appeal to the courts to have his qualifications as a voter judicially determined.  

27. Section 35, Title 17, Code of Alabama (1940), as amended.

After the expiration of the time prescribed for registration, the board of registrars transmits to the judge of probate its lists of newly registered voters. From the lists submitted to him by the registrars, the judge of probate prepares alphabetical lists of all registered voters, by precincts and districts. The lists prepared by the judge of probate comprise the official list of registered voters of the county. The judge compares the list of registered voters with poll tax lists furnished him by the tax collector. By striking from the list of registered voters the names of persons who have failed to pay poll taxes, the judge of probate produces the official list of qualified electors, which he is required by law to publish.
every two years in a newspaper of general circulation in the county.28


Registration in Alabama is of the "permanent" type, in that once a person is registered his name is subsequently removed from the list only for cause. Obviously, one of the major problems involved in the use of the permanent system of registration is that of keeping the registration lists current. Provision must be made for the systematic removal of the names of persons who have died, become insane, moved, or who have otherwise become disqualified, so that the registration lists will constitute an accurate reflection of the county electorate. This the Alabama registration law attempts to do through a removal process known as "purging."

Until 1957 the law required the boards of registrars to meet for two one-week sessions every other year—beginning on the first Monday in January and on the second Monday in February in each even-numbered year—for the purpose of purging the registration lists.29 Although deaths and

29. Sections 44 and 47, Code of Alabama (1940). Section 47 actually reads, "...on the second Monday in February, 1941, and every two years thereafter...," but is construed to mean "1940." See Quarterly Report of the
other causes for removal occur throughout the year, the registrars could purge the registration lists only during the prescribed purge periods. The necessity for continuous revision had been recognized in a few counties, and local laws had been obtained to permit the registrars in these counties to purge the lists whenever the boards were in session. A more flexible arrangement than that provided by general law also existed in a few other counties. Finally, in 1957, general legislation was enacted, authorizing the boards of registrars to purge the registration lists at any time the boards are in session.30 Whenever the board proposes to strike any person's name from the registration list, it must give notice of the fact and allow the person an opportunity for a hearing on the question whether his name should be stricken. If, after such a hearing, the board does strike the name of the person from the registration list, he may appeal the matter to the circuit court of the county for trial by jury.31

31. Sections 46 and 48, Title 17, Code of Alabama (1940).

In order that purgation may be performed properly,
the boards of registrars must receive notification of events affecting a person's status as an elector. State law requires a number of county officials having knowledge of such events to report them to the boards of registrars. Thus the registrars of vital statistics are required to submit reports of the death of persons over 21 years of age; the judges of probate are required to submit reports concerning persons who have been declared insane; and the circuit clerks must submit reports concerning persons who have been convicted of the offenses mentioned in Section 182 of the Constitution as causes for disqualification from voting. Since 1949 the boards of registrars have been required to question applicants for registration as to whether they have been registered previously in another county. If any registrant has been previously registered, the board registering him must notify the board of the county in which he was so registered. The board receiving the notification must then strike the name of the person from the list of qualified electors of that county. The final method provided by residence.

32. Section 45, Title 17, Code of Alabama (1940).

law for the discovery of the names which should be purged is the requirement that the boards of registrars, while visiting the election precincts of the county (for purposes of registration), must, themselves, attempt to ascertain the names of persons who should be stricken from the list by reason of death or otherwise.  

34. Section 51, Title 17, Code of Alabama (1940); Strong, op. cit., p. 104.

Because the removal methods provided by law do not always produce the information necessary to a satisfactory revision of the registration lists, some of the more energetic registrars utilize such informal methods as obituary-clipping and personal knowledge in an attempt to maintain their lists as accurately as possible. Too, the biennial publication of the list of qualified voters frequently elicits information of value in purging the lists. But both the formal and the informal removal methods often prove inadequate to the task of revision. Consequently, a number of counties (approximately a dozen) have embarked upon "reidentification" programs to revise their entire registration lists. Operating under special laws which authorize the procedure, these counties require all registered voters to fill in and return reidentification blanks to the boards of registrars in order to have their names
remain upon the registration lists. The blanks are made readily available to the registrants, and they have a period of up to three years to reidentify themselves as voters. Where it has been used, the reidentification procedure apparently has proved to be a valuable addition to the registration and revision processes provided by general law.\textsuperscript{35}

\footnotesize
\textsuperscript{35} Ibid., pp. 105-108. Reidentification has been completed in Jefferson and Montgomery counties, and has been provided for by special laws applicable to the counties of Houston, Lauderdale, Russell, Elmore, DeKalb, Talladega, and Walker, among others. \textit{Ibid.}, p. 107.

\textbf{Conduct of elections.} The counties of Alabama are divided into election units known as precincts, or, more popularly, as "beats." The county governing body has authority to establish or alter the boundaries of election precincts, and may subdivide into election districts any precinct in which there are more than 300 qualified voters and paper ballots are used or in which there are more than 600 qualified voters and voting machines are used. As an alternative to dividing such a precinct into districts, the governing body may divide alphabetically the list of qualified electors in the precinct and assign each voter a designated voting place and a designated ballot box or voting machine, so as to provide a ballot box for each 300 voters where paper ballots are used or a machine for each
600 voters where voting machines are used. Whenever the governing body alters the boundaries of election districts, so that they contain no more than the prescribed number of voters, it must designate a polling place within each district. The boundaries of the election districts and the location of the polling places are filed in the office of the judge of probate, and that officer gives notice of any change in district boundaries or polling places by publishing the notice in a newspaper in the county and by having the sheriff post the notice at the courthouse door and at two other public places in the district. The elector may vote only at the polling place designated for the district in which he is registered.  

36. Article 6, Chapter 1, Title 17, Code of Alabama (1940), as amended; Act No. 655, General Acts of Alabama, 1947, p. 504.

Election officials are appointed for each polling place within the county by an appointing board composed of the judge of probate, the sheriff, and the circuit clerk.  

37. If any of these officers is a candidate at the election, he may not serve on the appointing board. In such an event the register of the circuit court appoints a qualified elector to take the place of each member of the appointing board who is ineligible to serve.

Where paper ballots are used, the election officials consist of three inspectors and two clerks for each polling
place, who actually conduct the election, and a returning officer for each precinct, who takes the returns to the courthouse after the ballots have been counted. Where voting machines are used, the officials consist of an inspector, a chief clerk, and a first and second assistant clerk for each machine. A returning officer is not appointed for precincts using voting machines; his duties are performed by one of the officials in attendance at the machine. Political parties participating in primary and general elections may furnish lists of names of qualified electors for each voting place, and the appointing board must appoint the election officials from the names furnished. Where more than one political party holds a primary election on the same day, the appointing board must appoint separate sets of election officials for each party.\textsuperscript{38} Election officials receive $5.00 a day where paper ballots are used, and $8.00 a day where voting machines are used. Each candidate at a primary and each party entering candidates at a general election may appoint a watcher to represent the interests of the candidate or party at each polling place. The watcher is entitled to be present from the time the polling place is

opened until the ballots are counted and the certificates of results are signed by the election officials. If he so desires, he may inspect the ballots as they are counted.39

39. The provisions of law governing the appointment and duties of election officers are contained in Article 8, Chapter 1, Title 17, Code of Alabama (1940); but see Section 105, Title 17, Code of Alabama (1940), for the officials who serve where voting machines are used. See, also, Donald S. Strong, Election Officer's Handbook (University, Alabama, 1952), pp. 2-3, 22. For the pay of election officials, see Section 198, Title 17, Code of Alabama (1940), as amended, and Act No. 409, General Acts of Alabama, 1943, p. 395, as amended. The $3.00 differential in pay is to compensate officials using voting machines for having to attend a school of instruction. The returning officer receives a travel allowance of five cents a mile.

The judge of probate and the sheriff perform a number of important functions in the election process. The judge of probate is responsible for the preparation of all ballots and other supplies necessary to conduct the election.40 Separate ballots are provided for each party participating in primary elections. If two or more parties participate in a primary the ballots are printed on paper of a different color for each party. As noted previously, the judge of probate also prepares the official list of qualified electors of the county. He must see to it
that a copy of the list of qualified electors of each district is delivered to an inspector at the polling place. In primary elections, the sheriff provides ballot boxes for all polling places; in other elections the judge of probate and the circuit clerk share this responsibility with him. All election supplies, including the ballots and other necessary forms, the lists of qualified electors, and the ballot boxes, are delivered to the various polling places by the sheriff. If more than one party enters a primary, a separate ballot box must be provided for each party. When general, special, and constitutional amendment elections are all held on the same day, a separate ballot box must be provided for the ballots used in each election. The sheriff must provide booths or compartments for use in all elections, except municipal elections (when the duty devolves upon the mayor), held in cities of over 3,000 population, to protect the voter's right to mark his ballot in secret.\footnote{41}

\footnote{41. One booth or compartment must be provided for each 100, or fraction of 100 over 50, voters registered in each ward within such cities.}

Other duties of the sheriff in connection with the election process include publishing or posting official notice of the election and posting printed instruction cards for voters at the polling places. Additionally, he
must maintain order at elections, and he serves as returning officer for the county.42

42. These various duties of the sheriff and the judge of probate are set out in Sections 2, 89, 129, 130, 137, 138, 164, 185, 186, 350, as amended, and 351, Title 17, Code of Alabama (1940). See, also, Strong, Election Officer's Handbook, pp. 3-5.

Normally, the polls open between eight and nine o'clock in the morning, and must remain open continuously, without intermission or adjournment, until five o'clock in the afternoon, except in cities of over 5,000 population, where the polls must remain open until six o'clock. Where voting machines are used, the polls usually open at eight o'clock and close at six o'clock. In Jefferson County, however, which is the most heavily urbanized county in the state, the polls must open at seven o'clock in the morning and stay open until seven in the evening. Under the general law, election officers must arrive at the polling place by eight o'clock of the morning of the election. If any of the appointed officials fail to arrive by the hour of eight, the officials present may appoint substitutes from among the qualified voters on hand. As persons present themselves to vote, their names are checked against the list of qualified electors for the district. Any person whose name appears on the list of qualified electors may vote without producing his registration certificate or
poll tax receipt. A person whose name does not appear on the list may vote if he produces a certificate from the judge of probate that his name was added to the list of qualified electors after its publication. Any person offering to vote may have his right to cast a ballot challenged. The person may vote, however, if both he and an identifier (who is a registered voter) subscribe to an oath concerning the person's eligibility to vote.

Upon the voter's establishing his eligibility to vote, he proceeds to cast his ballot. As a deterrent to fraudulent voting, the voter himself must sign his name on one of the poll lists, or lists of persons who vote in the election, required by law to be maintained at each polling place. Qualified electors who, because of physical handicap or other cause, are unable to cast their ballots or sign the poll list themselves may be provided the necessary assistance. No loitering is permitted within 30 feet of the polling place. After a person has voted he must withdraw from the polling place, go beyond the 30-foot limit, and not enter the polling place again. Voting machines are used in a number of counties which have taken advantage of the provisions of law authorizing and regulating that method of voting. Qualified electors whose businesses or occupations require their absence on election day may vote an absentee ballot in person before the
register of the circuit court (or before an "absentee
election manager" appointed by the presiding judge of the
circuit court if the register is a candidate at the elec-
tion). But disabled veterans confined in hospitals oper-
ated by the Veterans Administration, members of the armed
forces, and the wives of servicemen may vote absentee bal-
lots by mail.\footnote{43}

\footnote{43. The information presented in the preceding two
paragraphs has been drawn from Act No. 488, H. 1023, ap-
proved September 10, 1957; Act No. 424, Acts of Alabama,
1949, p. 501; Sections 111, 131, 132, 136, 143, 144, 172,
176, and 187-191, Title 17, Code of Alabama (1940); and
Strong, Election Officer's Handbook, pp. 6-15.}

After the polls close, the same officials who conducted
the election must proceed immediately to count the votes.
No recess or adjournment is permitted. In counting paper
ballots, one of the election officials must take the bal-
lots, one by one, from the ballot box, and at the same
time read aloud the names of the persons voted for and the
offices for which such persons received votes. Where
voting machines are used, the counting compartment is
opened and one of the officials announces the result of
the election as shown by the counter numbers on the ma-
chine. As the votes are called out, calculations are kept
which indicate the number of votes received by each candi-
date. When the results of the election have been
determined, certificates of results are filled out and returned to the proper authorities—including the judge of probate and, in primaries, the chairmen of the state and county executive committees of each political party participating in the election. The used and remaining ballots and other election supplies and records are delivered to the sheriff, who destroys the used ballots after the expiration of six months unless, of course, an election contest has been instituted in the meantime.\footnote{Ibid., pp. 15-32; Sections 112, and 192-196, Code of Alabama (1940).}

\footnote{Ibid., pp. 15-32; Sections 112, and 192-196, Code of Alabama (1940).}

The counting of the votes by the election officials does not determine the final result of the election, since the law requires a canvass of the returns by other officials. After elections for county officers, the votes are canvassed by a board of supervisors composed of the sheriff, the judge of probate, and the circuit clerk.\footnote{As in the case of the election officials in attendance at the polling places, qualified electors of the county may be appointed as substitutes to take the places of any members of the board who are either disqualified or otherwise unable to serve.}

\footnote{As in the case of the election officials in attendance at the polling places, qualified electors of the county may be appointed as substitutes to take the places of any members of the board who are either disqualified or otherwise unable to serve.}

The board ascertains the results of the election, and must officially declare the result by making a written declaration, the original of which the board must file for record in the
office of the judge of probate and a copy of which it
must post at the courthouse door.\textsuperscript{46} The board of super-

\textsuperscript{46}. Article 14, Chapter 1, Title 17, Code of Ala-
bama (1940).

visors also files certificates of election with the judge
of probate, and the latter officer forwards the certifi-
cates to the successful candidates.\textsuperscript{47}

\textsuperscript{47}. Article 17, Chapter 1, Title 17, Code of Ala-
bama (1940).

\textbf{Election costs}. The expenses incurred in holding and
conducting elections (including the compensation of elec-
tion officials, the costs of ballots and other supplies,
and the cost of preparing the lists of qualified electors
furnished to the election officers) are paid in the first
instance by the counties. Primary as well as general and
special elections are administered at public expense. But
the state reimburses the counties for expenses (except the
expense of acquiring voting machines) incurred by the
counties in conducting elections at which candidates for
either federal or state offices are nominated or elected,
or where constitutional amendments affecting the state as
a whole are voted upon. In the case of elections in which
candidates for both federal or state and county offices are
nominated or elected, the state reimburses the counties for
one-half of the cost of the election. If candidates for only federal or state offices are voted upon the state reimburses the counties for the entire expense of conducting the election. Where constitutional amendments affecting one or more counties and amendments affecting the state as a whole are voted upon at the same election, the state reimburses the counties for one-half of the expense of the election; but if amendments affecting only the state as a whole are voted upon at any election, the state reimburses the counties for all expenses incurred in holding and conducting the election. 48


SUMMARY AND CONCLUSIONS

In Alabama, as in the other states, counties are important areas for the administration of elections and for the organization of political parties. Responsibility for election administration is divided among a number of county officers and boards; but, essentially, elections are provided for and conducted in Alabama in much the same manner as they are elsewhere in the United States. Voter registration is performed by county boards of registrars appointed by a state board of appointment composed of the Governor, the State Auditor, and the State Commissioner of
Agriculture and Industries. The conduct of elections, is largely in the charge of county boards of appointment, composed in each county of the judge of probate, the sheriff, and the circuit clerk, which appoint the election officials. Both the judge of probate and the sheriff have other election duties which each performs individually. The judge of probate prepares the list of qualified electors of the county, gives notice of changes in precinct boundaries or polling places, prepares the ballots, and provides the necessary election supplies. Among his other duties, the sheriff gives notice of elections, maintains order at the polls, distributes the ballots, lists of voters, and other election materials among the polling places, serves as returning officer for the county, and preserves the used ballots for a period of six months after the election. The governing body of the county fixes the boundaries of election precincts and designates polling places. Election returns are canvassed and certificates of election are issued by a board of supervisors, also composed of the judge of probate, the sheriff, and the circuit clerk.

Although elections are probably conducted as fairly in Alabama as in other states, a number of measures might nevertheless be taken to improve the quality of the election process. The use of ex officio boards is universally
condemned by students of public administration, and strong objections may be raised on principle to the employment of ex officio election boards. The ex officio duties now performed by the judge of probate, the sheriff, and the circuit clerk, as a board to appoint election officials and to canvass election returns, could perhaps be more satisfactorily performed by the county governing body. As a mild deterrent to fraudulent voting, each voter is required to sign his name on one of the poll lists, or lists of persons who have voted, required to be maintained at the various polling places. A more effective method of identifying the voters would be to require them to sign registration cards, thereby enabling the election officials to compare each voter's signature on the poll list with the signature on his registration card. Voting machines are used in the more populous counties, and, since this method of voting not only accelerates the election process but also minimizes the danger of election fraud, their use should be encouraged in the other counties of the state. Requiring the appointment of registrars from among persons who have demonstrated a knowledge of the registration laws, and requiring election officials employed where paper ballots are used to attend schools of instruction similar to those attended by the officials employed where voting
machines are used, would also be helpful in improving the general tone of election administration.

Party organization in Alabama conforms generally with that prevalent in other states, but the parties perform few of the functions generally associated with political parties elsewhere. Moreover, the role of the party organization in Alabama is vastly different from that in states operating under a bi-party system. The Democratic party dominates partisan politics in Alabama, and Democratic candidates are usually elected to office with little or no effort on the part of the party organization. Because of this factor, the Democratic primary assumes a peculiar significance in Alabama. In operation, it sheds its status as a nominating device, and assumes the stature of a general election. Since the party organization must maintain a neutral position in regard to the candidates for nomination, they must form personal followings and organizations to achieve election. County politics in Alabama thus becomes a personal and factional struggle for office within the framework of the Democratic party.

State law contemplates the conduct of primary elections in Alabama as closed primaries. Where two parties, for example, hold a primary election on the same day, separate ballots must be provided and they must be of a different color for each party. Separate ballot boxes
must be provided, and separate groups of election officials must be appointed to conduct the primaries. But the voters in Alabama are not required to register their party affiliations, and only the official lists of qualified electors are used to identify persons offering to vote at primary elections. Usually, any person whose name appears on the official list of qualified electors is allowed to vote in the Democratic primary. It actually operates, therefore, as an open primary.

Alabama's one-party system necessarily fails to provide continuing leadership or responsibility for the conduct of county government. Nevertheless, the prospects do not appear good for the development of a more responsible, two-party system in the foreseeable future. However, the people are near their county governments, and their proximity exerts a considerable influence upon the county officials. County government is highly personalized in Alabama, and, while not continuously responsible to the voters through the political party, is nonetheless responsible in a fashion peculiar to rural local government everywhere. Politics, in short, is an integral part of county administration. As Bosworth observed, "Official routine and the propitiation of voters are not separable
events when the voter on courthouse business meets personally the elected administrator.  

49. Black Belt County, p. 16.

One other factor involved in the relationship between political parties and Alabama county government should be noted. The observation is made throughout this study that one of the factors which have contributed most heavily to the counties' loss of position has been their inability to perform functions and to provide services demanded by the people. A number of suggestions are made as to organizational changes which would shorten the county ballot and possibly enable the counties of Alabama to provide more effective and responsible government. Students of county government usually note that one of the greatest obstacles to county reorganization is the opposition which such a movement would encounter from party organizations anxious to preserve their power at the grass roots. Because of the nature of the political system in Alabama, the political parties, as such, constitute no such obstacle to county reorganization. However, the county elected officials do constitute a formidable obstacle. Many of them are organized into various associations—such as the sheriffs' association and the association of county commissioners and probate judges—and they, especially, constitute an
important force in state politics. It is hardly conceivable that such changes as are suggested in this study could be accomplished over the opposition of the local officials. But the necessary changes possibly could be accomplished with their assistance. If the county officials are really interested in the maintenance of counties as vital units of government, they could do nothing greater toward the attainment of that end than to lend their support to the measures necessary to provide the state with a more adequate system of county government.
CHAPTER IV
THE GOVERNING BODY

Designation. The governing body of the county in Alabama, as in other states, is an elective county board. Although there is much variation in the state regarding the designation of the county governing bodies, the name most commonly used is the "court of county commissioners," as prescribed in the general law governing the form of county government. The name "board of revenue" is the next most common designation. As pointed out in Table V, there are 28 counties operating under a form of governing body known as the court of county commissioners, and 19 counties operating under boards of revenue provided for by local laws. The governing bodies of seven of the remaining 20 counties are designated as "the county commission." In the remaining 13 counties, the governing bodies have various other names—such as "board of county commissioners," "board of revenue and control," "board of directors," and "board of finance and control."

Composition. The name of a county governing body does not always indicate its composition. There is a great deal of variation in the names of the county governing bodies; but such variations notwithstanding, there are
only three basic types of county governing bodies in Alabama. The most common form of governing body is the "probate judge" form, as illustrated by the court of county commissioners or other body having the judge of probate as ex officio chairman. The next most prevalent form, and one which is growing in popularity, is the board of revenue in its true form, which eliminates the judge of probate as chairman. Finally, there is the commission type of government, which exists in its typical form only in the counties of Baldwin and Jefferson.

The court of county commissioners is composed of four commissioners and the judge of probate, the latter sitting as ex officio chairman.¹ The judge of probate is elected

¹. State law established the court of county commissioners as an inferior court of record, with original and unlimited jurisdiction over the establishment, change, and discontinuance of county roads and bridges. As such, it may perhaps be best described as an administrative court. The court of county commissioners should not be confused with the judicial court known as the "county court," of which the judge of probate is ex officio judge. See Chapter V for an explanation of the judicial courts.

from the county at large, but a more restricted form of residence requirement usually applies to the commissioners. Normally counties are divided into commissioners' districts, or road districts, and a commissioner is elected for each district. In some counties the commissioners are elected by districts; but, more frequently, the district
residence requirement is coupled with election at large. In a few counties, however, the members of the governing body are elected from the county at large, without regard to residence. The judge of probate serves for a term of six years; commissioners, for terms of four years. Commissioners' terms are frequently staggered, with two commissioners being elected every two years.

The court of county commissioners is known locally (and more realistically) as the "probate judge" form, for the chief distinction between this form of governing body and other forms is that the judge of probate is chairman. The board of revenue, as a distinct form of governing body, does not employ the judge of probate as chairman of the board. Otherwise, the board of revenue is similar in composition to the court of county commissioners. In a few instances the chairman of the board of revenue is selected by the board from among its own members, and in Winston County the chairman of the board is appointed by the Governor.\(^2\) However, the chairman of the board of revenue is normally elected from the county at large; and he, rather than the judge of probate, performs all duties.

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2. The reason for the Winston County provision is political rather than administrative. That county is a traditional Republican stronghold, in a traditionally Democratic state.
<table>
<thead>
<tr>
<th>County</th>
<th>Governing Body</th>
<th>Number of Members (a)</th>
<th>Manner of Election</th>
<th>Term of Members other than Judge of Probate (Years) (b)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Autauga</td>
<td>Board of Revenue</td>
<td>5, including Judge of Probate</td>
<td>Members—district residence requirement; election, at large. Judge of Probate—at large.</td>
<td>4</td>
</tr>
<tr>
<td>Baldwin</td>
<td>County Commission</td>
<td>4</td>
<td>At large.</td>
<td>4</td>
</tr>
<tr>
<td>Barbour</td>
<td>Board of Revenue</td>
<td>7</td>
<td>6 members—districts; 1 member at large.</td>
<td>6</td>
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<tr>
<td>Bibb</td>
<td>Court of County Commissioners</td>
<td>5, including Judge of Probate</td>
<td>Members—district residence requirement; election, at large. Judge of Probate—at large.</td>
<td>4</td>
</tr>
<tr>
<td>Blount</td>
<td>Board of Finance and Control</td>
<td>5</td>
<td>Members—districts. Chairman— at large.</td>
<td>4</td>
</tr>
<tr>
<td>Bullock</td>
<td>Court of County Commissioners</td>
<td>5, including Judge of Probate</td>
<td>Members—district residence requirements; election, at large. Judge of Probate— at large.</td>
<td>4</td>
</tr>
<tr>
<td>County</td>
<td>Governing Body</td>
<td>Number of Members</td>
<td>Manner of Election</td>
<td>Term of Members other than Judge of Probate</td>
</tr>
<tr>
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</tr>
<tr>
<td>Butler</td>
<td>Court of County Commission, including Judge of Probate</td>
<td>5</td>
<td>Members-districts. Judge of Probate-at large.</td>
<td>4</td>
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<tr>
<td>Calhoun</td>
<td>County Commission</td>
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<td>Members-district residence requirement; election, at large. Chairman-at large.</td>
<td>4</td>
</tr>
<tr>
<td>Chambers</td>
<td>Court of County Commission, including Judge of Probate</td>
<td>5</td>
<td>Members-districts. Judge of Probate-at large.</td>
<td>4</td>
</tr>
<tr>
<td>Cherokee</td>
<td>Board of Revenue</td>
<td>5</td>
<td>Members-districts. President-at large.</td>
<td>Members-President-4</td>
</tr>
<tr>
<td>Chilton</td>
<td>Board of Revenue and Control, including Judge of Probate</td>
<td>5</td>
<td>Members-district residence requirement; election, at large. Judge of Probate-at large.</td>
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</tr>
<tr>
<td>Choctaw</td>
<td>Board of Commissioners, including Judge of Probate</td>
<td>5</td>
<td>Members-districts. Judge of Probate-at large.</td>
<td>4</td>
</tr>
<tr>
<td>County</td>
<td>Governing Body</td>
<td>Number of Members</td>
<td>Manner of Election</td>
<td>Term of Members other than Judge of Probate (Years)</td>
</tr>
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<td>Court of County Commissioners</td>
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<td>Members-districts. Judge of Probate-at large.</td>
<td>4</td>
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<tr>
<td></td>
<td></td>
<td>Judge of Probate</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clay</td>
<td>Court of County Commissioners</td>
<td>5, including</td>
<td>Members-district residence requirement; election, at large.</td>
<td>4</td>
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<tr>
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<td></td>
<td>Judge of Probate</td>
<td>Judge of Probate-at large.</td>
<td></td>
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<td>Cleburne</td>
<td>Court of County Commissioners</td>
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<td>Members-district residence requirement; election, at large.</td>
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<td></td>
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<td>Judge of Probate-at large.</td>
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</tr>
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<td></td>
<td>Judge of Probate</td>
<td>Judge of Probate-at large.</td>
<td></td>
</tr>
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<td>Colbert</td>
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<td>Members-district residence requirement; election, at large.</td>
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<tr>
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<td></td>
<td></td>
<td>Chairman-at large.</td>
<td></td>
</tr>
<tr>
<td>Conecuh</td>
<td>Board of Directors</td>
<td>5</td>
<td>Members-district residence requirement; election, at large.</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Chairman-at large.</td>
<td></td>
</tr>
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<td>Governing Body</td>
<td>Number of Members</td>
<td>Manner of Election</td>
<td>Term of Members other than Judge of Probate (Years)</td>
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<td>Court of County Commissioners</td>
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<td>Members-districts. Judge of Probate-at large.</td>
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<td></td>
<td>Judge of Probate</td>
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<td>Board of Revenue</td>
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<td>Members-districts. President-at large.</td>
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<td>Crenshaw</td>
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<tr>
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<td></td>
<td>Judge of Probate</td>
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<tr>
<td>Cullman</td>
<td>Cullman County Commission</td>
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<td>At large.</td>
<td>4</td>
</tr>
<tr>
<td>Dale</td>
<td>Court of County Commissioners</td>
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<td>Members-districts. Judge of Probate-at large.</td>
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<tr>
<td></td>
<td></td>
<td>Judge of Probate</td>
<td></td>
<td></td>
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<tr>
<td>Dallas</td>
<td>Court of County Revenues</td>
<td>5, including</td>
<td>Members-districts. Judge of Probate-at large.</td>
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<tr>
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<td>Governing Body</td>
<td>Number of Members</td>
<td>Manner of Election</td>
<td>Term of Members other than Judge of Probate (Years)</td>
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<td>DeKalb</td>
<td>The County Commission</td>
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<td>Members-district residence requirement; election at large. President-at large.</td>
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<td>Court of County Commissioners</td>
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<td>Fayette</td>
<td>Court of County Commissioners</td>
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<td>Members-districts. Judge of Probate-at large.</td>
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<td>Franklin</td>
<td>Board of Revenue</td>
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<td>Members-district residence requirement; election at large. Judge of Probate-at large.</td>
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<tr>
<td>County</td>
<td>Governing Body</td>
<td>Number of Members</td>
<td>Manner of Election</td>
<td>Term of Members other than Judge of Probate (Years)</td>
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<td>Geneva</td>
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<td>Members-districts. Judge of Probate-at large.</td>
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<td>Judge of Probate</td>
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<td>Greene</td>
<td>Court of County Commissioners</td>
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<td>Members-district residence requirement; election, at large. Judge of Probate-at large.</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Judge of Probate</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hale</td>
<td>Board of Revenue</td>
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<td>Members-district residence requirement; election, at large. Judge of Probate-at large.</td>
<td>4</td>
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<td></td>
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<tr>
<td>Henry</td>
<td>Court of County Commissioners</td>
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<td></td>
<td>Judge of Probate</td>
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<td></td>
</tr>
<tr>
<td>Houston</td>
<td>Board of Revenue and Control</td>
<td>6, including</td>
<td>Members-districts. Judge of Probate-at large.</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Judge of Probate</td>
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<tr>
<td>Jackson</td>
<td>Board of Revenue</td>
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<td>Members-district residence requirement; election, at large. Chairman-at large.</td>
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<td>County</td>
<td>Governing Body</td>
<td>Number of Members</td>
<td>Manner of Election</td>
<td>Term of Members other than Judge of Probate (Years)</td>
</tr>
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<tr>
<td>Jefferson</td>
<td>County Commission</td>
<td>3</td>
<td>At large.</td>
<td>4</td>
</tr>
<tr>
<td>Lamar</td>
<td>Court of County Commissioners</td>
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<td>Members-districts. Judge of Probate-at large.</td>
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</tr>
<tr>
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<td></td>
<td>Judge of Probate</td>
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<td></td>
</tr>
<tr>
<td>Lauderdale</td>
<td>Court of County Commissioners</td>
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<td>Members-districts. Judge of Probate-at large.</td>
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<td>Lawrence</td>
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<td>Members-district residence requirement; election, at large. Judge of Probate-at large.</td>
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<td>Judge of Probate</td>
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<tr>
<td>Limestone</td>
<td>Board of Revenue</td>
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<td>Members-districts. Chairman-at large.</td>
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<tr>
<td>Lowndes</td>
<td>Board of Revenue</td>
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<td>At large. Members choose chairman from among their number.</td>
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</tr>
<tr>
<td>County</td>
<td>Governing Body</td>
<td>Number of Members</td>
<td>Manner of Election</td>
<td>Term of Members other than Judge of Probate (Years)</td>
</tr>
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<tr>
<td>Macon</td>
<td>Board of Revenue</td>
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<td>Members-district residence requirement; election, at large. Members choose chairman, who must reside at county seat.</td>
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</tr>
<tr>
<td>Madison</td>
<td>Board of County Commissioners</td>
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<td>Members-districts. Chairman-at large.</td>
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<tr>
<td>Marengo</td>
<td>Board of Revenue</td>
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<td>Members-district residence requirement; election, at large. President-at large.</td>
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<tr>
<td>Marion</td>
<td>Board of Revenue</td>
<td>5</td>
<td>Districts. Members choose chairman from among their number.</td>
<td>4</td>
</tr>
<tr>
<td>Marshall</td>
<td>Board of Revenue and Judge of Probate</td>
<td>5, including Judge of Probate</td>
<td>Members-districts. Judge ofProbate-at large.</td>
<td>4</td>
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<tr>
<td>Mobile (c)</td>
<td>Board of Revenue and Road Commissioners</td>
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<td>At large. After 1960-district residence requirement, election, at large.</td>
<td>4</td>
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<tr>
<td>County</td>
<td>Governing Body</td>
<td>Number of Members</td>
<td>Manner of Election</td>
<td>Term of Members other than Judge of Probate (Years)</td>
</tr>
<tr>
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</tr>
<tr>
<td>Monroe</td>
<td>County Commission</td>
<td>5, including Judge of Probate</td>
<td>Members-districts. Judge of Probate-at large.</td>
<td>4</td>
</tr>
<tr>
<td>Montgomery</td>
<td>Board of Revenue</td>
<td>5</td>
<td>District residence requirement; election, at large.</td>
<td>4</td>
</tr>
<tr>
<td>Morgan</td>
<td>Board of Revenue and Control</td>
<td>5</td>
<td>Members-district nomination and residence requirement; election, at large. Chairman-at large.</td>
<td>4</td>
</tr>
<tr>
<td>Perry</td>
<td>Court of County Commissioners</td>
<td>5, including Judge of Probate</td>
<td>Members-district residence requirement; election, at large. Judge of Probate-at large.</td>
<td>4</td>
</tr>
<tr>
<td>Pickens</td>
<td>Court of County Commissioners</td>
<td>5, including Judge of Probate</td>
<td>Members-district nomination; election, at large. Judge of Probate-at large.</td>
<td>4</td>
</tr>
<tr>
<td>Pike</td>
<td>Court of County Commissioners</td>
<td>5, including Judge of Probate</td>
<td>Members-districts. Judge of Probate-at large.</td>
<td>4</td>
</tr>
<tr>
<td>Randolph</td>
<td>Court of County Commissioners</td>
<td>5, including Judge of Probate</td>
<td>Members-districts. Judge of Probate-at large.</td>
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<tr>
<td>County</td>
<td>Governing Body</td>
<td>Number of Members</td>
<td>Manner of Election</td>
<td>Term of Members other than Judge of Probate</td>
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<tr>
<td>Russell</td>
<td>County Commission</td>
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<td>District residence requirements; election, at large. Members choose chairman from among their number.</td>
<td>4</td>
</tr>
<tr>
<td>St. Clair</td>
<td>Court of County Commissiners</td>
<td>5, including Judge of Probate</td>
<td>Members-district residence requirement; election, at large. Judge of Probate-at large.</td>
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</tr>
<tr>
<td>Shelby</td>
<td>Board of Revenue and Control</td>
<td>5, including Judge of Probate</td>
<td>Members-district residence requirement; election, at large. Judge of Probate-at large.</td>
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</tr>
<tr>
<td>Sumter</td>
<td>Board of Commissioners</td>
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<td>Associate Commissioners-district residence requirement; election, at large. Chairman-at large.</td>
<td>4</td>
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<tr>
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<td>Members-district residence requirement; election, at large. Judge of Probate-at large.</td>
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</tr>
<tr>
<td>Tallapoosa</td>
<td>Court of County Commissiners</td>
<td>6, including Judge of Probate</td>
<td>Members-district residence and nomination requirements; election, at large. Judge of Probate-at large.</td>
<td>4</td>
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## TABLE V (contd.)

<table>
<thead>
<tr>
<th>County</th>
<th>Governing Body</th>
<th>Number of Members</th>
<th>Manner of Election</th>
<th>Term of Members other than Judge of Probate (Years)</th>
</tr>
</thead>
<tbody>
<tr>
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<td>Board of Revenue</td>
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<td>At large.</td>
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<tr>
<td>Walker</td>
<td>Board of Finance and Control</td>
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<td>Members-district nomination and residence requirement; election, at large. President-at large.</td>
<td>4 (after overlapping terms have been achieved)</td>
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<td>Court of County Commissioners</td>
<td>5, including Judge of Probate</td>
<td>Members-district residence requirement; election, at large. Judge of Probate-at large.</td>
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<tr>
<td>Wilcox</td>
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<td>Members-district residence requirement; election, at large. Judge of Probate-at large.</td>
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<td>Winston (d)</td>
<td>Court of County Commissioners</td>
<td>5, including Judge of Probate</td>
<td>Members-district residence requirement; election, at large. Judge of Probate-at large.</td>
<td>4</td>
</tr>
</tbody>
</table>

(a) Where Judge of Probate is mentioned, that officer is both member and chairman. In other cases, the chairman is either elected to that position, as a distinct place on the board, or chosen by the members themselves, from among their own number.
(b) The term of the Judge of Probate is 6 years.

(c) Act No. 181, 1957 Regular Session, created a county commission of Mobile County, to be established on the first Monday after the second Tuesday in January, 1961. The commission is to be composed of a president and two associate commissioners. All three commissioners will be elected by place and number. All of the commissioners will be elected at large; but commissioner no. 1 must reside within the city of Mobile, and commissioner no. 2 must reside in territory lying outside the city of Mobile. Commissioner no. 3 may reside anywhere within the county. The president is to be chosen by the commissioners from among their own number. All of the commissioners will serve for four year tenure.

(d) Act No. 84, 1955 Regular Session, abolished the Highway Board of Winston County and vested its jurisdiction in a Board of Revenue created by the act. The act also provided that no successors would be chosen to the present members of the court of county commissioners and upon the expiration of their terms, its jurisdiction also would be vested in the Board of Revenue. The Board of Revenue created by this act is composed of three members. The two associate members are to be elected by districts, and are to serve for terms of four years. The act provides that the chairman of the Board of Revenue is to be appointed by the Governor, and shall serve at his pleasure.
relative to the county governing body which general laws assign to the latter officer. As may be noted in Table V, there are a few counties with a governing body designated as the "board of revenue" in which the judge of probate is retained as chairman of the board. The governing bodies of these counties should not be confused with the board of revenue as a distinct form of county governing body. They differ only in name from the court of county commissioners, and may also be considered as "probate judge" counties.

Except for a smaller number of members in some instances, neither do most of the governing bodies designated as "the county commission" differ significantly from the more prevalent types of county governing boards. However, the commission form of government does exist as a distinct form in Baldwin and Jefferson counties. Only in these counties is found the departmentalization of functions which characterizes commission government. In them each commissioner heads a separate administrative department.

The membership of the county governing bodies frequently varies from the five members provided by general law. Although a five-member board is the most common, Table V shows that board membership ranges from three to seven.

Qualifications. The only qualification prescribed by general law for the office of county commissioner, aside
from the qualifications imposed upon all public officers, is the requirement that the incumbent be a qualified elector of the county. Most of the local laws establishing county governing bodies provide that the commissioners must be residents of districts. In addition, in Hale and Lawrence counties, members of the governing body must be at least 25 years of age; and in Cullman County, members of the county commission must be high school graduates and within the age limits of 35 and 65 years.

Compensation. Under the general law, a member of the court of county commissioners receives four dollars for each day devoted to his duties as such. In addition, he receives five cents a mile for each trip from his home to the meetings of the governing body; four dollars for each day spent in the performance of his duties relative to county roads and bridges; and five cents for each mile necessarily traveled in connection with his road and bridge work. A member's per diem and mileage may be paid from the county road and bridge funds whenever they are incurred while the member is occupied in the conduct of his duties relative to roads and bridges; otherwise, his compensation is paid from the general funds of the county.3

Because of a conflict in the law, the judge of probate receives only three dollars a day as compensation for his duties as a member of the court of county commissioners. However, he receives a small fee for recording the proceedings of the court; and, under certain conditions, he may receive additional remuneration for discharging his duties relative to roads and bridges. 4

4. The Attorney General has ruled that the compensation of the judge of probate is governed by Section 29, Title 11, Code of Alabama (1940), as amended, which prescribes the fees of the judge of probate, rather than by Section 28, Title 12, which prescribes the compensation of members of the commissioners' court, notwithstanding the fact that Section 5 of Title 12 expressly makes the judge of probate a member of the court of county commissioners. Quarterly Report of the Attorney General of Alabama, April-June, 1944, p. 97.

The general law does not supersede local laws which prescribe the compensation of members of the county governing bodies. Since the counties are allowed to depart from the provisions of the general law, there is little uniformity with respect to compensation. Most counties have placed the members of their governing bodies on a salary. Annual salaries of county commissioners range from a minimum of $450 in Coosa County up to a top of $8,500 and $9,000, the amounts paid the Jefferson County associate commissioners and chairman, respectively, at the time of this writing.
Removal and vacancies. Members of the county governing body may be removed only by impeachment proceedings held in the circuit court of the county. In the event of a vacancy on the governing body, the position is filled by an appointment made by the Governor; and the person so appointed holds office for the unexpired term of the commissioner in whose place he is appointed.  

Meetings. The general law provides that regular meetings of the governing body must be held on the second Monday of every month. Special meetings may be called by the judge of probate upon ten days' notice by advertisement in a newspaper published in the county, or by posting the notice on the courthouse door and at two other public places in the county. Local laws usually provide for meetings in addition to the regular monthly meetings, and often allow special meetings at the call of a designated number (usually two or three) of the commissioners. Meetings may be held by the judge of probate and two commissioners. In the
absence of the judge of probate, three commissioners constitute a quorum for the transaction of business.  

6. Sections 8, 9, 10, Title 12, **Code of Alabama** (1940).

Authority of the governing body. 7 The general laws of the state vest in the court of county commissioners the important powers of levying taxes and appropriating funds for the maintenance of the county government.

Among its other powers, the county governing body possesses authority to establish, construct, maintain, and control the county public roads and bridges, and to exercise original jurisdiction, as an inferior court of record, in all matters relating to the county road system; to direct and control the property and finances of the county; to establish election districts and polling places within the county; and to exercise limited powers of appointment and control over county activities in such fields as health, welfare, library service, and agricultural extension service.

Within the limits allowed by the Constitution and
laws of the state, the commissioners' court may levy general taxes for general county purposes and special taxes for special purposes.\(^8\) Also, it is authorized to borrow money; to call elections to determine whether certain county expenditures shall be financed through the sale of bonds; and to establish sinking funds for the redemption of its bonds or other obligations. Moreover, the governing body has the authority to examine, settle, and allow all lawful claims against the county, and to examine and audit the accounts of all public officers having responsibility for the care, management, collection, or disbursement of county funds. In addition, it may compromise all claims in favor of the county, when such claims arise from the payment of funds by its order; and it may pay all the expenses incurred by the county treasurer in resisting the payment of any warrant, where such resistance on the part of the treasurer is successful.

The commissioners' court must adopt a budget for the county, and appropriate sufficient funds to pay the actual expenses of the county, as indicated by the budget. In counties where the office of treasurer has been abolished,
the governing body must select a depository for the
custody of county funds. It has authority to fix the
bonds of all county officers required to be bonded; and
possesses the general power to control the purchasing of
all supplies, materials, and equipment for the county,
and to pay for such purchases. It should be noted, how­
ever, that the appropriating authority of the county
governing body must be exercised only in connection with
such purposes as are authorized by law. Similarly, its
power to levy taxes or to incur indebtedness may be
exercised only within the limits prescribed by the Con­
stitution and laws of the state.9

9. See Chapter I.

Responsibility for the control of all county proper­
ty is also vested in the court of county commissioners.
As a corollary of this control, the commissioners' court
has the sole power to assign the rooms of the courthouse,
and to designate those to be used by the officers en­
titled to space in that building. In the event that the
available space in the courthouse is inadequate to supply
rooms for all the county officials, the governing body
may lease additional office space at the expense of the
county.

Making provision for the needy is a traditional
function of the Alabama county. As early as the territorial period in Alabama, the counties were required to dedicate a portion of the county tax for the support of paupers. Although fiscal responsibility for the support of the welfare function has been centralized at the state level, and the function is now performed through separate county boards of pensions and security, many counties continue to make appropriations toward the support of the local welfare program and in all counties the board of pensions and security is appointed (at least partially) by the county governing body. As explained elsewhere, the local public health function, although partially supported by county funds, is administered through separate boards of health, rather than through the court of county commissioners. However, the two bodies maintain liaison through a requirement that the chairman of the commissioners' court serve as ex officio member of the board of health. The maintenance of a public health department is mandatory in every county, but a health organization may not be established until the county governing body makes the necessary appropriation for its support. Agricultural extension service is almost exclusively a state function; but the county, through its governing body, participates in the financing of the activity. In order to promote public health work and agricultural extension service, the
counties are required to devote the shared revenues derived from the state sales tax to the support of these functions. Responsibility for election administration is divided among several boards and officers, but the court of county commissioners fixes the boundaries of election districts and designates polling places.

Although the court of county commissioners possesses authority of considerable significance, it has no responsibility for the general oversight of county administration. The effectiveness of the commissioners' court as a governing body depends essentially upon its possession of power in regard to the appointment, removal, compensation, and duties of the county officers; and the laws of Alabama vest in it no such powers or authority over the other organizational units comprising the county government. The appointive powers of the commissioners' court appear limited to the selection of a clerk, a courthouse janitor, a county surveyor, a county attorney, the county road crews, a county engineer, members of a few special county boards, and in some instances, a county depository. The judge of probate, sheriff, tax assessor, tax collector, treasurer (in some counties), circuit clerk, circuit solicitor, coroner, board of education, and superintendent of education (in most counties) are elected by the people. The judges of the judicial courts are elective, and
operate independently of the commissioners' court. Similarly, election administration is largely beyond the jurisdiction of the commissioners' court.

The acquisition of authority to provide proprietary services has been one of the most important developments in county government, but more often than not responsibility for the administration of these services has been vested in separate boards or corporations. The commissioners' court may appoint a library board and appropriate funds for the support of library service, but powers of supervision and management over the function are vested in the board. Except for levying school taxes, and ordering elections on such questions as proposed school taxation or issues of securities—which appear to be mandatory functions when properly petitioned by the school authorities—the court of county commissioners has little to do with local education administration. Control of the county school system is vested in a separate board of education, and school funds are maintained separately by a custodian of county school funds.

There are administrative relationships between the commissioners' court and other county agencies, but several of these agencies function under the supervision of state departments, and for this reason are largely beyond its control. The chairman of the commissioners' court is
ex officio member of the county board of health, but that organization is subject to the close supervision of the State Board of Health. Although the commissioners' court appoints or assists in appointing the county board of pensions and security, that function is also performed under the administrative supervision of a parent state agency, the State Department of Pensions and Security. Agricultural extension service is administered under the direction of the state headquarters at the Alabama Polytechnic Institute. The enforcement of the license laws and the assessment and collection of taxes are subject to the administrative supervision of the State Department of Revenue. The post-audit of county expenditures is conducted by the State Department of Examiners of Public Accounts, and accounting and reporting procedures are prescribed by the same state agency.

As the foregoing discussion indicates, the commissioners' court possesses little supervisory authority in connection with the general administration of county affairs. Local highway administration is virtually the only major function subject to the direct supervision of the county commissioners. But because the commissioners' court exercises the legislative powers vested in counties, and possesses some important administrative powers, particularly in regard to fiscal matters; it may be considered
in a limited sense as the governing body of the county, and the term is so used throughout this study. It should be noted, however, that the legislative power of the commissioners' court is as severely restricted as its administrative power. Its most important legislative authority involves the power to levy taxes and to appropriate funds; and, as observed previously, these powers may be exercised only within the narrow limits permitted by the state Constitution and laws. The fact that state fiscal aid is generally earmarked for the support of specific functions further limits its discretion in regard to the application of funds. Moreover, it has no authority to regulate local affairs through the enactment of ordinances. It is the weakness of the county governing body which accounts, in large measure, for the weakness of the county as a unit of government. For this reason, plans to strengthen county government, to make it more effective and responsible, must be founded on the proposition that the governing body must be strengthened in its relationships with the other county agencies.\(^\text{10}\)

\(^{10}\) This discussion of the county governing body was drawn largely from The Alabama Historical Records Survey Project, Division of Professional and Service Projects, Works Projects Administration, *Inventory of the County Archives of Alabama: No. 61, Talladega County* (Birmingham, 1940), pp. 12-19, 80-86; Brookings Report pp. 60-76; and Section 12, Title 12, *Code of Alabama*
(1940), as amended, which enumerates many of the powers and duties of the county governing bodies.

It should be pointed out that a change in the form of the county's governing body is not normally accompanied by an increase in authority. Local laws establishing governing bodies in lieu of the court of county commissioners usually confer upon the new organs the authority vested in courts of county commissioners by the general laws of the state. The act of 1935 which established the Jefferson County Commission affords a typical example of such provisions:

The commission shall have all the jurisdiction and powers which are or which may hereafter be by law vested in the courts of county commissioners or boards of revenue of this state and the members thereof shall perform all the duties and services and exercise all the powers which are, or may be provided by law for the members of courts of county commissioners or boards of revenue in this state.\(^\text{11}\)

\(^{11}\) Section 148, Title 62, Code of Alabama (1940).

Judge of probate. As explained previously, the judge of probate is ex officio member and presiding officer of the court of county commissioners; he has, however, no vote in the proceedings of the court except in the event of a tie vote among the commissioners.\(^\text{12}\) In addition to

\(^{12}\) Sections 5 and 21, Title 12, Code of Alabama (1940).
his duties as presiding officer, he is charged with responsibility for recording the proceedings of the court, making all necessary orders, and issuing all process necessary to sustain its jurisdiction or to maintain its authority.\textsuperscript{13}

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Other important duties of the judge of probate in relation to the court of county commissioners concern county financial administration. The general law places upon the judge of probate, where he is chairman of the county governing body, responsibility for issuing warrants against the county treasury.\textsuperscript{14} The financial records of the county must be maintained under the direction of the judge of probate, or other chairman of the governing body, and he must perform any other duties with reference to accounting, auditing claims, issuing warrants, and supplying the governing body with information about the financial status of the county as the governing body deems necessary for the administration of the financial affairs of the county.\textsuperscript{15}

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15. Sections 79, 80, Title 12, \textit{Code of Alabama} (1940). As to authority to employ clerical assistance,
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is normally responsible for preparing the county budget for adoption by the governing body. An act of 1953 sought to achieve a more effective control of county expenditures by requiring the presiding officer of the governing body, or such other officer as is authorized by law to draw warrants against the county treasury, to review personally all claims against the county to determine their factual and legal sufficiency. 16


Numerous duties in addition to those connected with the court of county commissioners are attached to the office of judge of probate. As judge of the probate court, he performs the duties usually associated with such a court, including, for example, the probate of wills and the administration of estates. Also in this connection he exercises special jurisdiction over insanity proceedings and adoptions. His is also the office in which deeds, mortgages and other legal documents are recorded. Except in Jefferson and Mobile counties, the judge of probate is the licensing officer of the county, and, as such, issues marriage, driver, and automobile licenses, as well as numerous business, professional, and occupational
licenses required by law. The judge of probate also

17. The licensing function is performed in Jefferson County by a Director of Revenue; in Mobile County, by a Commissioner of Licenses. He performs special duties in connection with elections. He receives the list of registered voters from the county board of registrars, compares this list with the names of persons who have paid the poll tax, and prepares the list of qualified electors, by polling places. Although the governing body fixes the boundaries of election districts and designates polling places, the judge of probate is required to publish notice of changes. He prepares the ballots to be used in elections, and delivers the lists of qualified electors and the election supplies to the sheriff, who distributes the lists and supplies among the various polling places. The judge of probate, the sheriff, and the circuit clerk comprise the board which is responsible for the appointment of election officials. Although the judge of probate is not required to be a lawyer, he is ex officio judge of the juvenile court and the county court, the latter being a judicial court of minor criminal jurisdiction. Generally, the compensation of

18. It should be emphasized that the county court is a judicial court. It should not be confused with the form of governing body known as the "court of county commissioners," or "commissioners' court," of which the
judge of probate is ex officio chairman. Partially because of dissatisfaction with the lay judgeship, a number of counties have created special juvenile and inferior courts, whose judges must be learned in the law. See Chapter V.

the judge of probate is in the form of fees derived from the performance of his numerous duties. Special qualifications required of candidates for the office of judge of probate include state citizenship and residence within the county in which the person is elected or appointed for at least one year preceding his election or appointment.19


Because of the broad scope of its powers and duties, the office of judge of probate assumes peculiar significance and importance in Alabama. As the foregoing discussion of the office indicates, its "powers and duties extend, in one county or another, into almost every field of administration." Where the judge of probate is chairman of the governing body, he is likely to be the leader of the dominant political faction and thus the principal political figure within the county. His fiscal powers (where he is chairman of the governing body), his multitudinous duties, his knowledge of the county's affairs, and his political position—all these factors combine to make the office of judge of probate a position of real
consequence in the county government. Primarily his role is that of coordinator and, in a limited sense, general supervisor; yet in some counties he practically dominates the county affairs. It should be noted, however, that the stature of the office varies considerably from county to county. Its prestige seems to depend largely upon the political position and personal characteristics of the incumbent.  

20. This discussion of the office of judge of probate is partially based on Brookings Report, pp. 105-115; and Key, op. cit., p. 53. For an interesting description of the judge of probate and his role in a rural Alabama county, see Black Belt County, pp. 33-39.

Chairman in lieu of judge of probate. As previously noted, many Alabama counties have adopted, through local legislation, either the board of revenue or the commission type of governing body. Both alternative types, in their pure forms, eliminate the judge of probate as member and chairman of the governing board. The chairman of the board or commission is normally charged with the duties and powers which the general laws vest in judges of probate in relation to courts of county commissioners. In addition, however, the local laws establishing such alternative forms of government generally provide that the chairman shall have the same voice as the other members in the proceedings of the governing body. The chairman
is usually required to devote his full time to his official duties.

Summary and conclusions. The governing body of the county in Alabama, as in the other states, is an elective county board. There is much variation in the state as to the designation and composition of the county governing bodies, but they may be reduced to three general types. The most prevalent form is the "probate judge" type, which includes the courts of county commissioners and other similar bodies having the judge of probate as ex officio chairman. The next most prevalent form is the "board of revenue" type, which, as a distinct form of county governing body, does not employ the judge of probate as chairman. Otherwise, the board of revenue is similar to the "probate judge" type. Finally, there is the commission type of county government, which exists in its typical form only in the counties of Baldwin and Jefferson. The governing body most often consists of the chairman and four commissioners. With some exceptions, the chairman is elected from the county at large. The commissioners are usually elected either by districts, or by the county at large upon their nomination by districts.

The governing body of the Alabama county possesses significant powers of control and supervision over the property and finances of the county, and over the location,
construction, and maintenance of county roads and bridges. Its financial powers include authority to levy county taxes (in accordance, however, with prevailing state laws), manage the county's indebtedness (within established debt limitations), adopt the county budget, make appropriations in accordance with the budget, and approve claims against the county. It performs a number of important duties in connection with election administration; and it exercises limited powers of appointment and control over county activities in such fields as health, welfare, library service, and agricultural extension service. But in conducting the county's affairs, the commissioners tend too often to concentrate on highway administration, leaving the management of other business, usually, to the judge of probate.21 Where the

21. This tendency is so pronounced in some counties that the commissioners are spoken of, not simply as "commissioners," but as "road commissioners."

district system of highway administration is used, the governing body tends to defer to the judgment of its individual members in matters affecting their respective districts. As a result of these tendencies, its meetings sometimes amount to little more than ceremonies held to formalize decisions already made.

Although the governing body of the Alabama county
possesses authority of considerable significance, it has no responsibility for the general oversight of county administration. As a practical matter, an administrative official is primarily responsible to the authority by which he is appointed and removable. To a lesser extent, he is responsible to the authority which fixes his duties and compensation. Through its financial powers, the governing body may exercise an indirect—though at times substantial—control of the county administrative organization. Nevertheless, it possesses little authority in regard to the appointment, removal, duties, and compensation of the other boards and officers comprising the county government. Having been denied the essentials of authority, its position as the head of the county government is merely nominal.

The chief figure in the government of almost every Alabama county is the judge of probate. In more than half of the counties, he serves as chairman of the governing body; and where he serves as chairman, he also serves as administrative officer of the governing body. Primarily, his role is that of coordinator and, in a limited sense, general supervisor of the county's affairs. In addition to his duties in relation to the governing body, he performs a variety of other administrative and judicial functions. In most counties, especially where the judge of
probate is chairman of the governing body, the office constitutes the epitome of county politics. As such, it attracts "the dominant political figure of the county, and the influence resulting from the office's wide variety of duties operates to preserve that dominance." 22

22. Black Belt County, p. 33.

It should be noted, however, that there has apparently developed in the state a trend toward restricting the position of the judge of probate, through the adoption of county governing bodies which do not include that officer in their membership, and through the creation of special inferior courts with attorneys as judges. Increasing state gasoline tax subventions have provided the commissioners with more and more funds to spend on county roads. This development has greatly enhanced the position of the county commissioners, sometimes at the expense of the judge of probate. 23

23. See, e.g., Tennessee Valley County, p. 22.

The practice of electing county commissioners by or from districts should be discontinued; the commissioners should all be elected at large. The counties are divided into districts to achieve areal representation on the governing body; but this method of selection produces such
serious administrative and political consequences as administrative decentralization, scattered responsibility, weakened popular control, and the encouragement of duplication and inefficiency. Eliminating the commissioner's districts would effect a general improvement in the operations of the county governing body, but such improvement should be especially marked in the area of highway administration. The general practice of electing commissioners for overlapping terms should be retained. This method of selection helps to shorten the county ballot, and assures continuity of policy and experience.

Changes in governing boards are frequent occurrences among Alabama counties. Some of these changes may stem from a commendable regard for administrative reform. On the other hand, they may indicate legislative manipulation of the governing body for personal or political purposes. If the governing body of the county is to be nothing more than the "plaything of political caprice" its stature can only continue to deteriorate. One of the most conspicuous needs of county government in Alabama is the strengthening of the governing body in its relationships with both the state Legislature and the other county offices and departments. This is a necessary first step toward the reconstruction of Alabama county government along more effective and responsible lines.
CHAPTER V
JUDICIAL ADMINISTRATION AND LAW ENFORCEMENT

Although the administration of justice and the maintenance of law and order are in the last analysis functions of the state government, these functions traditionally have been delegated, in large part, to the counties of the state. The machinery for maintaining law and order at this level consists of the county court system and the county law enforcement officers. The county court system is composed of the inferior courts (county court, probate court, juvenile court, special inferior courts, and justices of the peace) and the circuit court, which is the court of general jurisdiction. The function of law enforcement is performed by the sheriff, his deputies and assistants, constables, and the coroner.

Inferior courts. County courts. Under the general laws of Alabama, the judge of probate is ex officio judge of a judicial court of minor criminal jurisdiction, known as the "county court."¹ The clerk of the circuit court of

¹ Section 313, Title 13, Code of Alabama (1940). The judge of probate is allowed a small ex officio fee for performing this service. See Section 314 of Title 13.
court. Terms of county court must be attended by the

2. See Sections 315-319, Title 13, Code of Alabama (1940).

sheriff (or one of his deputies), but in his absence the
court may appoint some suitable person to act in his stead.

3. See Section 320, Title 13, Code of Alabama (1940); Reports of the Attorney General, 1918-20, p. 204; Torbert v. Hale County, 131 Ala. 143 (1901).

The county court has original jurisdiction, concurrent with the circuit court, of all misdemeanors committed in the county. A term of court is held at the courthouse


on the first Monday of every month, or on such other day of each month as the judge may designate, and is continued until its business is completed. In counties where the circuit court is held at two places, the county court may also be held at the same places. In counties of less than 15,000 population, in which there are municipalities (other than the county seat) having a population of more than 1,000, the judge may hold special terms of county court in such municipalities whenever in his opinion the
public convenience will be thereby served.\(^5\) All prose-


utions instituted in the county court are tried by the judge without a jury. The judge determines both the law and the facts. In all cases of conviction, the defendant has the right to appeal to the circuit court of the county, where a jury trial is conducted *de novo.*\(^6\)


Probate courts. Probate courts, as such, have original and general jurisdiction over the following subjects:

1. The probate of wills

2. The granting of letters testamentary and of administration, and the repeal or revocation of such instruments

3. All controversies in relation to the right of executorship or of administration

4. The settlement of accounts of executors and administrators

5. The sale and disposition of the real and personal property belonging to, and the distribution of, intestates' estates
6. The appointment and removal of guardians for minors and persons of unsound mind

7. All controversies as to the right of guardianship, and the settlement of guardians' accounts

8. The allotment of dower in land

9. The partition of lands within their counties

10. Proceedings to change the name of any person residing in the county

7. Section 278, Title 13, Code of Alabama (1940). See also Constitution of Alabama, 1901, Article VI, Section 149.

The probate court also exercises jurisdiction over cases involving desertion and non-support, commitment of the mentally ill, and cases involving adoptions and the legitimization of children. The court may punish contempts by either a fine not to exceed $20.00, or imprisonment not to exceed 24 hours, or both. Regular terms of probate court must be held in each county, at the courthouse, on the second Monday in each month. The court remains open for the dispatch of business until the Saturday preceding the second Monday in the following month, unless sooner adjourned by the judge. The court
Juvenile courts. The probate courts of the state constitute the juvenile courts in all counties except those in which there exist special courts exercising exclusive jurisdiction over children within certain specified age limits. The function of the juvenile court is to determine the question of the dependency, neglect, or delinquency of children under the age of 16 years, and to make such judgments for their custody, supervision, care, protection, and guardianship as will best serve the public welfare and the best interest of the children. Juvenile cases proceed on the assumption that a child is not only subject to the discipline of the state, but is also entitled to the care and protection of the state. In consequence, a juvenile may remain under the care and control of the court during his minority, unless sooner discharged from the court's custody or committed to a correctional institution. Proceedings in juvenile cases may be held informally and in private, and must be held at a different time from other cases in the probate court. In conducting juvenile proceedings, the judge of the court

must so conduct the hearing "as to disarm the fears of the child and to win its respect and confidence."

The juvenile court may appoint probation officers, who may be either men or women, but must be of good moral character, intelligent, and sympathetic to the purposes of such courts. The State Department of Pensions and Security establishes standards which must be attained by applicants for employment as probation officers, and the court must make appointments from names certified by that department. In actual practice, however, the court usually appoints the director of the county department of pensions and security as the probation officer. Probation officers serve during the pleasure of the court, and may be removed at any time. The judge of the juvenile court may appoint an advisory board for the court, or the county board of pensions and security may serve in this capacity.

Appeals may be taken from the juvenile court to the circuit court sitting as a court of equity. The circuit court tries these cases de novo, and must render "such judgment as to it shall seem just and for the best interests of the child." If the circuit court does not dismiss the proceedings and discharge the child from the custody of the court, he is remanded to the jurisdiction of the juvenile court for care or supervision under the
terms of the judgment of the circuit court, as if the juvenile court had issued the judgment in the first instance. It should be noted that the jurisdiction conferred upon the courts by the juvenile court law is in equity. It is not, in any manner, criminal, and is broad enough to cover the case of any dependent, neglected, or delinquent child. The general juvenile court law does not apply in a few counties having special juvenile courts which have been established by local laws. However, the special juvenile courts normally exercise the same jurisdiction as is provided in the general law.\textsuperscript{10}

\textsuperscript{10}. This description of the juvenile courts of Alabama has been drawn from Sections 350-383, Chapter 7, Title 13, Code of Alabama (1940); and Marie Bankhead Owen, The Story of Alabama, A History of the State (New York, 1949), Vol. II, p. 307. Special juvenile courts exist in the counties of Calhoun, Jefferson, Mobile, Montgomery, and Russell.

\textbf{Justices of the peace.} Generally speaking, Alabama law provides for the election of two justices of the peace within the limits of every rural election precinct. The term of office of a justice of the peace is four years. Vacancies in the office are filled by appointment of the Governor; a person appointed to such a vacancy serves for the remainder of the unexpired term of his predecessor.\textsuperscript{11}

\textsuperscript{11}. Sections 385-386, Title 13, Code of Alabama (1940); Constitution of Alabama, 1901, Article VI,
Section 168. See also Section 387 for provisions relating to notice of vacancy. See Tennessee Valley County, pp. 63-65, and Black Belt County, pp. 52-55, for a discussion of the activities of justices of the peace in two Alabama counties. Other portions of the chapters on law enforcement in these two publications provide interesting examples of the tone of law enforcement in the state.

The removal of a justice from residence in his election precinct vacates the office. In addition to the regular justices, one notary public with all the powers and jurisdiction of a justice of the peace may be appointed by the Governor for each precinct in which the election of justices is authorized.

Justices of the peace normally have both civil and criminal jurisdiction, and may punish contempts by a fine of not more than six dollars or by imprisonment for not more than six hours. Generally, the justices have original jurisdiction in civil cases arising within their respective counties—

1. Of all actions founded on contract, when the sum claimed does not exceed $100

2. Of all actions founded on any wrong or injury, when the damages claimed do not exceed $100, except in
actions of libel, slander, assault and battery, and ejectment, of which actions they have no jurisdiction

3. Of all actions of forcible entry and unlawful detainer

4. Of all actions brought to recover specific property whose value does not exceed $100\textsuperscript{14}

\textsuperscript{14} Section 389, Title 13, Code of Alabama (1940). Justices of the peace possess constitutional jurisdiction of all civil cases involving not more than $100, except in cases of libel, slander, assault and battery, and ejectment. Section 168.

Any party may appeal from a judgment rendered against him by a justice of the peace, provided that within five days after the rendition of the judgment the appeal is made to the circuit court of the county, where the trial is held de novo.\textsuperscript{15}

\textsuperscript{15} Sections 477, 484, Title 13, Code of Alabama (1940).

Normally, justices of the peace may exercise jurisdiction in criminal cases arising only within the precincts for which they have been elected or appointed. However, justices have preliminary jurisdiction in criminal cases coextensive with the limits of the county, except where inferior courts have been established in lieu of the justice of the peace, and where the jurisdiction of justices
has been conferred on such inferior courts.\textsuperscript{16} According to the general laws of the state, justices of the peace have jurisdiction in criminal cases concurrently with the county court of the following offenses, when the offenses are committed within the territorial jurisdiction of their respective precincts:

Violations of Sunday, vagrancy, assaults, assaults and batteries, and affrays in which no stick or other weapon is used; and, when the value of the commodity which is the subject of the crime does not exceed ten dollars, of larceny, whether at common law or by statute, embezzlement and receiving stolen or embezzled goods, knowing them to be stolen or embezzled; and for failure to work on public road after legal notice, and of offenses for cruelty to animals, and of public drunkenness.\textsuperscript{17}

\textsuperscript{17} Sections 416, 417, Title 13, Code of Alabama (1940).

Justices of the peace also have jurisdiction over violations of the game and fish laws, and of certain traffic violations on the highways.\textsuperscript{18}

\textsuperscript{18} Section 47, Title 8; Section 52, Title 36, Code of Alabama (1940).

In all criminal cases tried before a justice of the peace, the justice must determine both the law and the
facts without the use of a jury. If the defendant demands a trial by jury, the case must be transferred to the circuit court, and, upon indictment, the case is heard there. A defendant, if convicted in a case tried before a justice of the peace, has the right to appeal the case to the circuit court, where the trial is conducted de novo.\(^\text{19}\) It should be noted that in a number of counties justices have been stripped of their criminal jurisdiction, and, in some counties, their civil jurisdiction also has been limited.\(^\text{20}\)

\(^{19}\) Sections 423, 424, 428, 429, Title 13, Code of Alabama (1940).

\(^{20}\) See, e.g., Acts No. 371 and 372, Acts of Alabama, Regular Session, 1953, p. 443, which apply to Cherokee County. Act No. 371 divested the justices of all criminal and quasi-criminal jurisdiction. Act No. 372 provides as follows: "No justice of the peace or notary public having the powers of a justice of the peace in Cherokee County shall have any jurisdiction over any action of forcible entry and unlawful detainer, of any action brought to recover specific property, of any garnishment or attachment proceeding, or of any other special statutory proceeding in a civil case. They shall only have and exercise jurisdiction of actions founded on contracts when the sum claimed does not exceed one hundred dollars and of actions founded on a wrong or injury when the damages claimed do not exceed one hundred dollars, except actions of libel, slander, assault and battery and ejectment, of which they have no jurisdiction." Apparently, the purpose of the acts was to confer exclusive jurisdiction of all statutory proceedings cognizable before justices of the peace upon the Cherokee County Law and Equity Court, a special inferior court of the type described below.

Special inferior courts. There probably always has
been in Alabama some dissatisfaction with the provisions of law requiring the judge of probate to function as ex officio judge of the county court. Since neither the Constitution nor the general law requires the judge of probate to be a lawyer, it frequently (if not usually) happens that a person who is not learned in the law sits as judge of the county court. This situation, coupled with dissatisfaction with the justice of the peace courts, has contributed to the creation, in a rather large number of counties, of special inferior courts with attorneys as judges.

Such special inferior courts normally exercise the civil jurisdiction of justices of the peace, concurrently with the several justices in the county, and, in addition, exercise certain civil jurisdiction concurrently with the circuit court of the county. Normally, special inferior courts do not exercise civil jurisdiction over actions of libel, slander, assault and battery, or ejectment, or actions in the nature of ejectment. Special inferior courts have criminal jurisdiction of all misdemeanors committed in the county, and also have the same criminal and quasi-criminal jurisdiction as justices of the peace. In some counties (Escambia, for example) all criminal and

quasi-criminal jurisdiction of the justices of the peace has been transferred to the special inferior court of the county. These courts also may be granted jurisdiction over juvenile cases, and cases of desertion and non-support, which otherwise would be heard in the probate court. Where the jurisdiction of the county court is conferred upon the special inferior court, the county court is usually abolished.\footnote{22}

\noindent 22. For a typical act governing a special inferior court, see Act No. 482, \textit{Acts of Alabama}, Regular Session, 1953, p. 600.

\textbf{Circuit courts.} The Constitution provides that the state must be divided into convenient judicial circuits, for each of which there must be chosen a judge, who must for at least one year next preceding his election and during his continuance in office reside in the circuit for which he is elected.\footnote{23} The Constitution further provides

\noindent 23. Constitution of Alabama, 1901, Article VI, Section 142.

that any county having a population of 20,000 or more inhabitants and a taxable property valuation of $3,500,000 or more need not be included in a circuit; but if the taxable property valuation of the county is reduced below that amount, or if the population of the county is reduced
below that number, the Legislature must include the county in a circuit which embraces more than one county. No circuit may contain less than three counties, unless there is embraced within the circuit a county having a population of 20,000 or more and a property valuation of $3,500,000 or more. Under these provisions, of course, any county which possesses the required population and property valuation may be constituted a separate judicial circuit.\textsuperscript{24} The Supreme Court of Alabama has interpreted


the constitutional provision requiring the election of a judge for each circuit to mean that more than one judge may be assigned to one circuit.\textsuperscript{25} As a consequence of

\textsuperscript{25} See, e.g., State, ex rel. Tate v. Fort, and consolidated cases, 199 Ala. 321, 74 So. 387 (1917).

these provisions, and their interpretation, the state is now divided into 32 circuits, with 54 circuit judges.

Circuit court must be held in each county at least twice in each year. The circuit courts make provision for holding both regular and special sessions of court; but if the Governor determines that the due administration of the law so requires, he may direct any circuit
judge to hold a special session of court in any county in the judge's circuit. Special sessions of the court may also be called by the Chief Justice of the Supreme Court when, in his opinion, the business in any court is so congested or delayed as to warrant such action. Moreover,
circuit judges may hold court for each other whenever they, themselves, deem it expedient.

The Constitution provides for the establishment of a system of chancery courts for the state, with requirements similar to those for circuit courts, but further provides that the Legislature may confer upon either the circuit court or the chancery court the jurisdiction of both courts. In 1915, the Legislature effectuated a consolidation of the circuit courts and the chancery courts by conferring the equity jurisdiction of the chancery courts
upon the circuit courts. At present, the circuit courts have authority--

1. To exercise original jurisdiction of all felonies and misdemeanors; of all actions for libel, slander, assault and battery and of ejectments without regard to the amount involved; and of all other suits and actions at law when the matter or sum in controversy exceeds fifty dollars; and in all causes in equity.

2. To exercise appellate jurisdiction of all civil actions and criminal cases cognizable before a county court or court of like jurisdiction, or a justice of the peace, or court created in lieu thereof, and in such other cases as may be provided by law.

3. To exercise a general superintendence over all inferior jurisdictions.

4. To punish contempts by fines, not exceeding fifty dollars, and by imprisonment, not exceeding five days.

5. To exercise such other powers not contrary to the constitution as are, or may be, given to such court by law.

6. To prescribe rules and regulations as to pleadings and practice, as to the time of filing and settling pleadings, and to make any orders, rules, and regulations, which must be spread on the minutes of the court, and to enforce the same, which may expedite the business of the court, when such orders, rules, or regulations are not contrary to the constitution and statutes of this state, or to the rules adopted by the supreme court.30

30. Section 126, Title 13, Code of Alabama (1940); Constitution of Alabama, 1901, Article VI, Section 143.

Circuit courts, therefore, are the general trial courts of the state, with jurisdiction extending to cases
both at law and in equity. All cases in equity are entered on a separate docket, which is maintained by a register appointed by the circuit judge, or the presiding judge if there are two or more circuit judges for the court, and are tried in the "equity side" of the circuit court. Cases at law are tried in the "law side" of the court. Although the division of the circuit courts into two sides, with separate clerks, records, and offices, actually results in the maintenance of separate courts,

integration of the equity and law jurisdiction of the circuit courts is facilitated through provision in the law for the transfer of suits from one side of the court to the other.

Circuit judges are elected by the qualified electors of the circuit for a term of six years. Vacancies in the office of circuit judge are filled by appointment of the
Governor, and the appointee holds office until the next general election for any state officer held at least six months after the vacancy occurs. The person chosen in the election holds office for the remainder of the unexpired term. Circuit judges are paid by the state a salary of $8,500 a year, but additional salary must be appropriated by the counties. General laws provide for the payment of county supplements ranging from $1,200 to $3,500, depending upon the number of judges and counties in a circuit.

As suggested above, registers in chancery are appointed by the circuit judge, or the presiding judge of courts having more than one judge. The register holds office for the term of the judge who appointed him, but may be removed, for cause, by either the judge or the justices of the Supreme Court. Any person appointed to the office of register must have been for at least one year before his appointment, and must be at the time of his appointment,
and during his continuance in office, a resident citizen
of the county for which he is appointed. Registers are
usually compensated under the fee system.36 A circuit

36. Constitution of Alabama, 1901, Article VI, Sec­
tions 163, 166; Section 210, Title 13, Code of Alabama
(1940). See Section 213, Title 13, for the duties of
registers.

clerk is elected by the qualified electors of each county,
for a term of six years, to maintain the records of the
"law side" of the circuit court. The circuit clerk may be
appointed to the office of register, but in practice dif­
ferent persons normally hold the two offices. Vacancies
in the office of circuit clerk are filled by the judge for
the unexpired term.37 Usually, clerks of the circuit

37. Constitution of Alabama, 1901, Article VI, Sec­
tion 165. Section 196, Title 13, Code of Alabama (1940),
as amended.
courts are also compensated under the fee system.38

38. See Section 198, Title 13, Code of Alabama
(1940), for duties of the circuit clerk.

Judges. The Constitution stipulates that the judges
of all courts of record must have been citizens of the
United States and of Alabama for five years next prece­
ding their election or appointment, must be at least 25
years of age, and, except for judges of probate, learned
in the law.\textsuperscript{39} In addition to these qualifications, a

\textsuperscript{39} Constitution of Alabama, 1901, Article VI, Section 154.

circuit judge must have resided in the circuit for which he is elected or appointed for at least one year preceding his election or appointment, and must continue to reside within the circuit during his continuance in office.\textsuperscript{40} No judge of a court of record may practice law

\textsuperscript{40} Section 176, Title 13, Code of Alabama (1940).

in any state or federal court.\textsuperscript{41} The Constitution also

\textsuperscript{41} Constitution of Alabama, 1901, Article VI, Section 163.

provides for the filling of vacancies in the offices of elected judges by appointment by the Governor. The appointee holds office until the next general election for a state officer held at least six months after the vacancy occurs. The person chosen in the election as successor holds office for the remainder of the unexpired term.\textsuperscript{42}

\textsuperscript{42} Constitution of Alabama, 1901, Article VI, Section 158. An important variation from this procedure exists in Jefferson County. Vacancies in the office of judge of the Birmingham division of the circuit court are appointed by the Governor from a list of three names nominated by the Jefferson County Judicial Commission. The commission is composed of two attorneys elected by the county bar association; two persons who are not
attorneys, selected by the county's legislative delegation; and one judge of the Birmingham division of the circuit court, selected by the judges of the court. See Amendment LXXXIII of the Alabama Constitution.

Judges of the county court system may be removed from office through impeachment proceedings for the following causes: "Wilful neglect of duty, corruption in office, incompetency, or intemperance in the use of intoxicating liquors or narcotics to such an extent in view of the dignity of the office and importance of its duties as un­fits the officer for the discharge of such duties, or any offense involving moral turpitude while in office, or com­mitted under color thereof, or connected therewith." 43

43. Constitution of Alabama, 1901, Article VII, Sections 173, 194; Section 178, Title 41, Code of Alabama (1940).

Impeachment proceedings may be instituted on the information of the Attorney General, or the solicitor, or by any five resident taxpayers of the judicial area for which the judge sought to be impeached was elected or appointed. 44

44. Sections 180, 181, Title 41, Code of Alabama (1940).

Impeachment proceedings against circuit judges and judges of probate are conducted in the state Supreme Court. Such proceedings against circuit clerks, judges of special
inferior courts, and justices of the peace are conducted in the circuit court. The Constitution expressly provides, however, that in the latter cases the rights of trial by jury and appeal must be secured.45

45. Constitution of Alabama, 1901, Article 7, Sections 174, 175.

No state officer in Alabama may be officially retired on pay. However, a circuit judge who meets certain qualifications relative to age, disability, or length of service may make application to the Governor for appointment as a supernumerary circuit judge. Any vacancy created by appointment of a circuit judge to supernumerary status is filled by appointment by the Governor. The duties of supernumerary circuit judges involve holding court or performing other judicial duties in any county of the state upon the written order of either the Governor or the Chief Justice of the Supreme Court. On occasion they are called to active service. Supernumerary circuit judges receive an annual salary of $4,000, paid from the general fund of the state treasury. Such judges hold office during good behavior, and may be removed only by impeachment for causes specified in the Constitution.46

46. Act No. 936, Acts of Alabama, Regular Session, 1951, p. 1605. As noted, this procedure was necessitated
by a constitutional provision, Section 98, which prohibits the retirement of any state officer on pay.

Juries. The preparation of the county jury roll is the responsibility of the county jury commission, which is composed of three persons appointed by the Governor for terms commensurate with his own. Members of the jury commission must be qualified electors of the county who have good reputations for fairness, impartiality, integrity, and good judgment. The jury commission is permitted to employ a clerk, whose compensation ($10.00 for each day employed as such) is paid from the county treasury. The jury commission directs the clerk's work, and prescribes the amount of time which he must devote to his duties. The lists of registered voters apparently serve as the base from which the commission proceeds to prepare the jury roll. The qualifications of voters and jurors are not the same, hence the commission must add and delete names from the registration lists to produce the roll of qualified jurors. Members of jury commissions apparently rely heavily upon their personal knowledge in determining the male citizens of the county who, by virtue of their age (21 to 65), integrity, judgment, character, and standing in the community, are eligible for jury duty. Other sources of information, such as church rolls and the rosters of civic organizations may also be used. It
should be noted that Alabama is one of the few states in which women are not eligible to serve on state juries.

Because of the necessity to comply with procedural requirements of due process of law, there is a widespread tendency in the state to place the names of selected Negroes on the county jury rolls. But they are excused liberally and are frequently struck, with the result that small numbers of them see actual service. Negroes serve frequently on federal juries, however, and in some counties (Montgomery, for example) they serve regularly on state juries as well.

The jury commission meets at the county courthouse annually, between the first day of August and the twentieth of December, to compile the roll of qualified jurors. After the roll has been prepared, the names are transferred to plain white cards, all of the same size and texture. The cards are placed in a metal box having a lock with only two keys. The jury box is normally kept in a vault in the office of the judge of probate; but, if it happens that there is no vault in that office, the box may be stored in some other office in the courthouse having a vault. The president of the commission has custody of one of the keys to the jury box. The other key must be kept by a judge of a court of record having juries, other than the probate or circuit courts. However, if there is
no such court of record in the county, the second key is kept by the circuit judge, for the sole use of the judges of the county who need jurors. The jury roll, itself, is maintained for the exclusive use of the jury commission; and it may not be inspected by any unauthorized person.47

47. The foregoing discussion is based largely on Sections 8, 9, 18, and 19, Title 30, Code of Alabama (1940); and Sections 15, 20, and 21, Title 30, Code of Alabama (1940), as amended.

Each member of the jury commission receives the sum of $10.00 for every day in which he is actually engaged in the discharge of his official duties—up to a maximum annual amount which ranges from $200 to $600. The exact remuneration depends upon the population of the county. When satisfied that service has been rendered, the judge of probate issues a warrant on the county treasury for the payment of the compensation due the members.48

48. Section 12, Title 30, Code of Alabama (1940), as amended.

The actual drawing of juries is done by the judge in open court. The judge draws from the jury box the names of at least 50 persons to supply the grand jury for the next session of court and the petit juries for the first week of the session. The first 18 names drawn constitute the grand jury. The remaining jurors are empaneled and
sworn in groups of 12, and these groups serve as petit juries for the forthcoming week of court. Additional names are drawn as the need arises.\textsuperscript{49}

\textsuperscript{49} Sections 30, 38, Title 30, \textit{Code of Alabama} (1940).

\textbf{Solicitors.} The Constitution requires the election of a solicitor, or prosecuting attorney, for every judicial circuit of the state. The Constitution further provides that the solicitor must be learned in the law and a resident of a county in the circuit for which he is elected. Solicitors serve for a term of four years, and may receive no compensation other than a salary to be fixed by the Legislature.\textsuperscript{50}

\textsuperscript{50} Constitution of Alabama, 1901, Article VI, Section 167.

receive an annual salary of $7,000, payable out of the general fund of the state treasury, except in certain circuits, such as the Tenth (Jefferson County), the Thirteenth (Mobile County), and the Fifteenth (Montgomery County), where circuit solicitors receive an additional amount from the county.

The duties and authority of circuit solicitors include the important functions of attending on the grand juries, advising them as to matters of law, and examining witnesses
before them; drawing up all indictments and prosecuting all indictable offenses; and prosecuting or defending civil actions in the circuit court in the prosecution or defense of which the state is interested. If any criminal prosecution is removed from a court of his circuit to a court of the United States, the solicitor must appear in the federal court and represent the state; but if it is impracticable for him to perform this function, in view of his other duties, he may appoint some other attorney to represent the state in such a case. The circuit solicitor provides legal counsel to all county officers, as to matters concerning their respective offices; and, when requested to do so by the proper authorities, he renders assistance, and makes investigations and recommendations, in connection with pardons and paroles in cases arising in his circuit. Both the Governor and the Attorney General may assign solicitors to prosecute cases or to work with grand juries outside their respective circuits. Solicitors must devote their entire time to their duties of office, and are prohibited from practicing law in any manner whatsoever, except, of course, in the discharge of their official duties.51

51. For further information concerning the duties of solicitors, see Section 229, Title 13, Code of Alabama (1940); Act No. 435, Acts of Alabama, 1949, p. 631; Act
Circuit solicitors must appoint a deputy solicitor for each county in their respective circuits. The duties of deputy solicitors are "to represent the state in all cases in the county court and inferior courts, and all preliminary proceedings, applications for bail and habeas corpus proceedings in all courts, aid or act for the circuit solicitor before the grand jury and in all matters in the circuit court when requested to do so by the circuit solicitor, and perform all the duties of the circuit solicitor in his absence when so directed by the circuit solicitor,..." A circuit solicitor may remove his deputies at pleasure. 52

52. Section 256, Title 13, Code of Alabama (1940).

Under the Constitution, the Legislature "may provide by law for the appointment by the governor or the election by the qualified electors of a county for a solicitor for any county." 53 Acting under the authority of this constitutional provision, the Legislature, by local law, has created in a number of counties the position of county solicitor, an officer who performs the same, or similar,
duties required of deputy solicitors. The courts have held that the provisions of law which authorize the circuit solicitors to appoint deputy solicitors do not violate the constitutional provision quoted above. The judicial view is that "There is a vast difference between the office of county solicitor, within the meaning of the constitutional proviso, and that of deputy circuit solicitor. The incumbent of the one acts for himself, by virtue of the office which he holds; the other acts for another, by virtue of the office which the other holds."54


The courts have also held that an act creating the office of county solicitor does not infringe upon the right of a circuit solicitor to appoint a deputy solicitor for that county.55

55. State, ex rel. Gaston v. Black; In Re Tate; State, ex rel. Tate v. Fort: 199 Ala. 321, 74 So. 387 (1917).

Circuit solicitors possessing qualifications similar to those required of circuit judges may also be appointed by the Governor to supernumerary status. Supernumeraries have all the authority of circuit solicitors, and upon the request of either the Governor, the Chief Justice of the
Supreme Court, or the Attorney General must attend circuit court for the investigation or prosecution of any criminal case, or for the prosecution or defense of any cause in which the state is interested. On occasion they are called upon to render such services. Supernumerary circuit solicitors receive a salary of $4,000 a year, paid out of the state treasury as other judicial salaries are paid. A supernumerary circuit solicitor may be removed from office by impeachment proceedings tried in the Supreme Court in the same manner and for the same causes as active circuit solicitors are removable.  

56. Act No. 31, Acts of Alabama, Fifth Special Session, 1950, p. 79; Act No. 474, Acts of Alabama, Regular Session, 1953, p. 589. This procedure was also necessitated by the constitutional prohibition against the retirement of state officers on pay.

Sheriffs. The Constitution provides that a sheriff must be elected in each county, and that the sheriff is a member of the executive department of the state. He holds office for a term of four years, and (since 1938) is eligible to succeed himself in office.  

57. Constitution of Alabama, 1901, Article V, Sections 112, 138; Amendment XXXIV.

The sheriff is the chief police officer of the county and serves, also, as the executive officer of the courts held in the county.
His duties are specified in the law as follows:

(1) To execute and return the process and orders of the courts of record of this state, and of officers of competent authority, with due diligence, when delivered to him for that purpose, according to law.

(2) To attend upon the circuit courts held in his county, when in session, and the courts of probate, and the county courts, and the court of county commissioners, when required by the judge of probate, and to obey the lawful orders and directions of such courts.

(3) The sheriff of each county must, three days before each session of the circuit court in his county, render to the county treasurer or custodian of county funds a statement in writing and on oath, of the moneys received by him for the county, specifying the amount received in each case, from whom, and after deducting from such amount five per cent, for his compensation, pay the balance to the county treasurer, or custodian of county funds.

(4) It shall be the duty of sheriffs in their respective counties by themselves or deputies to ferret out crime, to apprehend and arrest criminals, and in so far as within their power to secure evidence of crimes in their counties, and to present a report of the evidence so secured to the solicitor or deputy solicitor for the county, or if there is an inferior or special statutory court within the county in which a solicitor prosecutes criminal cases, then to such solicitor.\(^{58}\)

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\(^{58}\) Section 5, Title 54, \textit{Code of Alabama} (1940).

In the great majority of the counties the sheriff's compensation is based on the fee system. Where the sheriff is paid on this basis, he must have one chief deputy, and he may have as many other deputies as he thinks proper.
The chief deputy is appointed by the sheriff, and serves at his pleasure. The sheriff may appoint other deputies, but, unless otherwise provided by law, he must pay their salaries out of his own compensation. Where the sheriff is paid a salary, his fees are paid into the county treasury, and his deputies are paid by the county.

In addition to his duties as peace officer and executive officer of the courts, the sheriff performs numerous other functions, among the more important of which are control and management of the county jail and certain duties in connection with the conduct of elections. In regard to elections, the sheriff, along with the judge of probate and the circuit clerk, is a member of the board which appoints election officials for the various polling places. He gives notice of the date of each election, and the officers to be voted for or the questions to be voted on, and preserves order at all elections held in the county. The sheriff, moreover, is designated by law as the returning officer for his county. He also distributes among the polling places the ballot boxes and other supplies necessary for the conduct of an election. After the votes
have been counted, he receives the boxes in which the ballots and a poll list have been sealed, and preserves them for a period of six months. After that period of time, he destroys the ballots, unless a contest has been instituted in the meantime.  

60. Sections 120, 130, 2, 129, 89, 186, 195, 196, Title 17, Code of Alabama (1940).

The law vests in the sheriff legal charge and custody of the county jail and the prisoners therein. However, the sheriff may, and normally does, appoint a jailer to perform the actual work involved in operating the jail.  

61. Section 115, Title 45, Code of Alabama (1940).

When a prisoner is committed to the county jail, the sheriff must within 10 days after the commitment report to the circuit clerk in writing the name of the prisoner, the day of his entering the jail, and by whose authority, and the charge against the prisoner. The sheriff must make a similar report to the circuit clerk upon the discharge of a prisoner from jail.  


report to the presiding judge of the circuit court of his county, on the first day of court, a certified list of
all prisoners confined in the jail, and of the offenses with which they have been charged or of which they have been convicted.\textsuperscript{63}

\textsuperscript{63.} Section 135, Title 45, \textit{Code of Alabama} (1940).

The sheriff is charged with responsibility for feeding the prisoners in the jail, but he performs this duty under the supervision of the county governing body. He is reimbursed by the state for the expenses necessary to feed prisoners, and also receives an allowance for preparing and serving the food.\textsuperscript{64} On or before the tenth of every month, the sheriff must furnish the county governing body, the State Department of Finance, and the State Board of Corrections a detailed report setting out the actual expense of feeding prisoners during the preceding month. Upon receipt of the report, the State Comptroller issues a warrant upon the state treasury in favor of the sheriff for payment of the expense of feeding prisoners. At the same time, the Comptroller draws a warrant in favor of the sheriff to cover the amount allowed for preparing and

\textsuperscript{64.} Sections 142-145, Title 45, \textit{Code of Alabama} (1940), prescribe the allowances for these purposes. The food allowance may not exceed 60 cents per prisoner per day. The allowance for preparing and serving food ranges from one dollar per prisoner per day, for one prisoner, downward to five cents per prisoner per day, for as many as 85 prisoners.
serving food for prisoners. Where the sheriff is paid a salary, the expense of feeding prisoners must be borne by the county, and the allowances for feeding prisoners and for preparing and serving food are paid into the county treasury.65

65. Sections 146, 147, 148, Title 45, Code of Alabama (1940).

Twice each year, if practicable, and more often if necessary, the State Board of Corrections conducts an inspection of the county jails. The Board of Corrections has authority to require the erection of sanitary buildings for the accommodation of county prisoners; to investigate the management of jails and the conduct of the persons in charge of jail management; and to require that jail buildings and grounds be maintained in the proper sanitary condition. If the board orders additions or the erection of new buildings, the county governing body may appeal to the Governor, who has final power to settle the matter. The Commissioner of Corrections, subject to appeal to the Governor, may condemn jails and prohibit their further use for the confinement of prisoners when, in his discretion, unsatisfactory or insecure conditions warrant such action.66

Since the law prescribes no special qualifications for the office of sheriff, the effectiveness of law enforcement varies from county to county, depending largely upon the capabilities and attitudes of the sheriff and his assistants in each county. Most sheriffs enter their offices without formal training in the techniques of law enforcement. However, their eligibility to succeed themselves affords the voters an opportunity to retain successful sheriffs in office, thereby enabling them to gain a store of experience which offsets to a considerable degree their lack of formal training. Many of them lack adequate facilities for effective law enforcement; some, simply because of their county's financial inability to afford such facilities. Fingerprinting was done extensively before 1943; but since that year every sheriff has been required to fingerprint persons taken into custody, and to furnish copies of the fingerprint cards to the Federal Bureau of Investigation and to the Bureau of Investigation and Identification of the State Department of Public Safety. The State Bureau of Investigation and Identification maintains a central file of fingerprint records, and furnishes information to law enforcement offices upon their request in writing.67

Wilful failure or neglect on the part of a sheriff to perform the duties required of him by law constitutes wilful neglect of duty, and renders him subject to removal from office by impeachment proceedings tried by the Supreme Court. As in the case of judges, removal proceedings may be instituted in the name of the State of Alabama, in the nature of an information, by the Attorney General, the solicitor, or by five resident taxpayers of the county.

Constables. The law provides for the election of one constable for each election precinct in each county, to hold office for a term of four years. Constables are conservators of the peace within their respective counties, and perform the following duties:

1. Attend the sessions of the circuit court of the county when summoned by the sheriff for that purpose

2. Execute and return all summons, executions, and other process directed to him by any lawful authority

3. Pay over all moneys collected by virtue of his office to the person entitled thereto
4. Attend the sessions of the justices' courts in his precinct.  

70. Section 33, Title 54, Code of Alabama (1940). See also, Constitution of Alabama, 1901, Article VI, Section 168; Sections 28, 32, Title 54, Code of Alabama (1940).

Whenever a vacancy occurs in the office of constable, the justice of the precinct who lives nearest the constable must notify the judge of probate of the existence of the vacancy. The judge of probate then notifies the Governor, who appoints a person to hold office for the unexpired term. Removal of a constable from residence in his election precinct automatically vacates the office.

71. Sections 29, 30, 34, Title 54, Code of Alabama (1940).

Constables receive compensation in the form of fees for the performance of their various duties and services.

72. See Section 39, Title 11, Code of Alabama (1940), for fees allowed in civil cases; Section 92, Title 11, for fees allowed in criminal cases.

Coroners.  

73. This presentation is largely based on Coleman B. Ransone, Jr., The Office of Coroner in Alabama (University, Alabama, 1957).
Alabama law, a coroner must be elected for each county in the state. Under present conditions, however, it is difficult to get qualified persons to seek the office. As a result, a coroner is regularly elected only in some 52 of the state's 67 counties. Where no coroner exists, the duties of the office are performed either by the sheriff or by agents of the State Department of Toxicology and Criminal Investigation. In certain cases (for example, when the office is vacant, or when both the coroner and the sheriff are interested in a case), the judge of probate may appoint a special coroner. 74 Where a coroner is elected, he serves for a term of four years. Vacancies caused by the death or disqualification of the incumbent are filled by gubernatorial appointment. The coroner usually receives compensation in the form of fees, but in approximately one-fourth of the counties he is paid a small salary. Incumbents are subject to removal through impeachment proceedings filed originally in the circuit court.

The principal duty of the coroner is to investigate cases of violent or unusual death to determine the cause of death. In addition, he must keep the jail when the
sheriff is imprisoned, and he may perform the duties of the sheriff in certain emergency situations, as when the office of sheriff is vacant, or when the sheriff is otherwise unable to act. State law contemplates the use of a jury in connection with coroner's inquests, but in practice the coroner's jury is not used in many Alabama counties. Although the function of inquiring into deaths of a suspicious nature is a highly important aspect of law enforcement, and necessarily requires some degree of medico-legal expertness, the general law prescribes no special qualifications for the office of coroner. The occupational background of most coroners seems to be that of a mortician. However, local laws applicable to several of the more populous counties (Montgomery, for example) have imposed the requirement that the coroner must be a licensed physician.

Inadequacies in regard to training, compensation, office supplies and equipment, and public understanding and support of the functions of the office, cause the office of coroner to function at a relatively low level of effectiveness in Alabama. As a result, the investigative function of the coroner's office has, in recent years, increasingly devolved upon the scientifically trained
investigators of the State Department of Toxicology and Criminal Investigation. 75 An important exception to the

75. There has been some criticism in the state of this development. Such critics usually assert that neither do the agents of the State Department of Toxicology and Criminal Investigation possess sufficient medico-legal training to determine causes of death with the necessary degree of accuracy. Mobile County has sought to improve the operation of the coroner's office by providing the coroner with assistants, who must be physicians.

general pattern of organization exists in Jefferson County. An act of 1931 abolished the office of coroner in that county (counties over 300,000 population), and conferred the powers of the office on the county governing body. The duties of the coroner are performed by agents of the Jefferson County Commission, who are employed under the county merit system. 76 This system resembles the county

76. Section 167, Title 62, Code of Alabama (1940).

medical examiner system utilized by a number of counties in such states as Michigan, New Jersey, and Texas.

Summary and conclusions. The administration of justice and the preservation of the peace are important functions of the Alabama county. The machinery for maintaining law and order at this level consists of the county court system and the county law enforcement officers. The county court system is composed of the inferior courts
(county court, probate court, juvenile court, special inferior courts, and justices of the peace) and the circuit court, which is the court of general jurisdiction. Law enforcement is performed by the sheriff, his deputies and assistants, constables, and the coroner. It should be noted that the circuit courts are technically state courts, rather than units of county government, and that the judges and solicitors associated with these courts are state officers, whose salaries are largely paid by the state. But because of the elective nature of their offices, and their orientation, they are considered local officers. A similar situation exists in regard to the office of sheriff. The Constitution places the sheriff within the executive department of the state. He is, however, locally elected, and is subject to little state supervision; hence he is also considered a county officer.

The development of the state was necessarily accompanied by an increasing amount of litigation. Especially at the county level, the increasing volume of business was met simply by the addition of new courts. More often than not, the old courts were retained, and were allowed to exercise concurrent jurisdiction with the new courts. As a result, the county court system is composed of too many courts, whose jurisdictions badly overlap. It should be noted that in Alabama the justice of the peace is a
constitutional officer, whose jurisdiction may not be entirely abolished by legislative act except in precincts containing incorporated municipalities of more than 1,500 inhabitants. Special inferior courts have been generally created in lieu of justice courts in the urban precincts. Nevertheless, the protection accorded justices by the Constitution is an important reason for the failure to establish a more rational form of organization for the state's minor judiciary.

In earlier times, when the administration of justice was a relatively simple process, the justice of the peace made an important contribution to the maintenance of law and order within the community. But under modern conditions the office is subject to increasing criticism. Because no special qualifications are required for the office, it is normally filled by persons who lack the training necessary for the proper performance of the judicial function. Dissatisfaction with the office is also caused by abuses stemming from the fee system.

Probably the most effective solution to the organizational problems associated with Alabama's minor judiciary lies in the creation of an integrated county court. Such a step would involve the abolition of the existing inferior courts and the establishment of a single county court with appropriate divisions to handle the civil, criminal,
quasi-criminal, probate, and juvenile jurisdiction now
vested in separate courts. The judge of such a court
should be chosen from the legal profession. As indicated
in Chapter I, however, there is much variation among the
counties with respect to such matters as area, population,
and economic resources. Under such conditions, it would
be difficult, if not impossible, to devise a uniform
court structure suitable to the needs of all the counties.
The problem of county judicial organization is, therefore,
intimately associated with the problem of county geo­
graphical organization. As a result, really effective
judicial reorganization must wait upon the establishment
of enlarged county units able to support integrated courts.

Much of the criticism of Alabama's minor judiciary
centers upon the justice courts. Since special inferior
courts have generally been created in lieu of justices in
the urban centers, the problem is of primary concern in
the rural areas, where there remains a need for inferior
courts close at hand, and continuously open, for the set­
tlement of small causes. Consequently, the justice courts
should not be abolished, but should be retained in an im­
proved form. Reform of the justice courts is difficult to
accomplish, not only because justices are constitutional
officers but also because of their political influence.
But if it is politically possible to do so, their number
should be substantially reduced. This could be done, under modern conditions, with little, if any, loss of convenience to the public. The exact number of justices needed within each county, and their territorial jurisdiction, should be determined by the county governing body. They should be appointed by the county governing body, and they should be paid fixed salaries. If at all possible, trained attorneys should be appointed as justices of the peace. But because attorneys may not be available in rural counties, or because the small amount of litigation may not justify the expense of using attorneys as justices, it should be optional with the county governing bodies as to whether attorneys should be appointed to this position. Thus reconstituted the justice courts could have real significance. Ultimately, perhaps, they could form a division of an integrated county court.

The chief law enforcement officer within the county is the county sheriff. The office is filled by popular election. Since no special qualifications are required, it usually happens that persons unfamiliar with modern police methods are elected to the office. However, the fact that a sheriff may succeed himself in office ameliorates this problem to some extent. Some observers suggest the appointment of sheriffs by the Governor as one method by which more effective law enforcement might be achieved.
Others suggest that the function should be transferred to the state police. Neither of these solutions is likely to take root in Alabama at this time. Perhaps the adoption of a merit system for the selection and management of the sheriff's deputies and assistants might prove more feasible. Such a requirement would introduce a needed measure of professionalization into the administration of the police function, and, thereby, perhaps contribute a great deal to the improvement of law enforcement in the rural areas.

In addition to his police work, the sheriff serves the processes and executes the orders of the courts within the county. He performs a number of important duties in connection with elections, and is responsible for the management of the county jail. He feeds county prisoners under a fee arrangement. Probably a more satisfactory arrangement for feeding prisoners would be to transfer the function to the county governing body. Providing a suitable jail imposes a financial burden of considerable proportions upon a county. The enlargement of county areas, through consolidation, would also be a solution to this problem. But until such an areal reorganization is accomplished, the state might authorize the erection of jails on a district or regional basis, as was done in California in 1957.
The low level of effectiveness at which the office of coroner functions is another defect in Alabama's system of local law enforcement. The importance of the office is obvious, for whether or not a criminal investigation is begun often depends upon a coroner's finding of homicidal death. Professor Ransone points out three approaches which might be used to improve the medico-legal investigative system in Alabama. One approach would be to retain the present system of electing the coroner, but to try to improve it. A second approach involves the improvement of the present system, coupled with the adoption of a regional arrangement under which increased costs could be shared by several counties. The third approach lies in the adoption of a state financed and administered system.77


An immediate step which could be taken to improve the operation of the coroner's office would be to undertake annual training conferences, as in Ohio. Such a conference would be a simple, yet effective, method by which coroners could be kept abreast of developments in medico-legal subjects.

Ransone suggests that a medico-legal system under which the investigative function is transferred to a re-organized and enlarged State Department of Toxicology and
Criminal Investigation would perhaps offer the greatest long-range gains for the state. 78 Others would prefer that the function remain at the county level. In order that the function may be performed effectively at that level, however, the office of coroner, as such, should perhaps be abolished. Its medical aspects could be vested in a medical examiner appointed by the county governing body; its legal aspects could be transferred to the circuit solicitor. In order to attract competent medical personnel, the examiners should be paid salaries commensurate with their training and the importance of their function.

78. Ibid.
CHAPTER VI
HIGHWAY ADMINISTRATION

Historical development of county highway administra-
tion. The problem of road construction was one of the earliest subjects to which the Legislature of Alabama turned its attention. During the month of December, 1819, the month in which the state entered the Union, the Legislature enacted a statute which designated the terminal points of a number of roads and authorized the opening of these roads "if practicable." ¹ The act required the

1. This treatment of the development of county highway administration in Alabama was drawn largely from a paper written by Mr. I. B. Rutledge, former chief of the Bureau of County Aid, Alabama State Highway Department: "Alabama: Expansion and Refinement of County Governmental and Operating Characteristics as Obtained in Inventory of Local Road Administration," September 14, 1950.

orphans' court² of each county through which these roads would pass to appoint three commissioners to lay out and mark the roads, and to appoint apportioners and overseers authorized to "work all persons liable to road work within two miles of the proposed road, for opening same and keeping it in repair." ² These were early courts having jurisdiction of orphans' business. They were superseded by the probate courts.

The Territorial Militia Act of 1814

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had required all males from age 18 to 60 to be enrolled in the militia, and those from 18 to 45 to attend muster. The act of 1819 made these men subject also to road duty. Later amendments to this act placed a limit of 10 days work per year for any one person, except under conditions of emergency, and permitted persons liable to road duty either to make a payment of money instead of work or send a substitute to perform the work for which they were liable. Although the laws imposing liability to road duty are not now used, it is interesting to note that they remain on the statute books of Alabama.

3. Article 5, Chapter 1, Title 23, Code of Alabama (1940). The laws imposing liability to road duty were used, however, until relatively recent times. The amount of money payable in lieu of work (the so-called "commutation" tax) was originally fixed at $5 a year and was later raised to $10.

In the following year, December, 1820, legislation was enacted which provided that all roads "established by acts of the General Assembly, and all established by the county courts, which were so on the 21st December 1820, are declared to be and continue public roads." The act further provided that thereafter the county courts of the several counties of the state would have full power to establish public roads where necessary, and to discontinue such roads as were found to be useless, and to alter
roads, to make them more useful, as often as the occasion required.

Under the act of December, 1820, roads were located and established by a jury of seven freeholders or householders appointed by the county court. The county courts of the various counties were authorized to divide the public roads into districts, and, annually, to appoint one overseer for each district. At the same time as the county courts made the appointments of overseers, they also had to appoint such persons as they deemed necessary to apportion among the overseers the "hands" liable by law to work on the public roads. The overseer was required to notify the hands as to the designated time and place at which work upon the roads was to be undertaken, and to supervise the road work in his district. Overseers were also required to measure roads; to set up posts at intervals of one mile, marking on the posts the distance to the courthouse; and to establish at all crossroads within their districts "index boards pointing at, with directions to the most noted places to which they lead,..." Penalties were provided in the act for refusing to work, or, in the case of persons appointed to locate the roads, apportioners, and overseers, for neglect of duty.4

4. The penalties were in the form of fines or
forfeitures. Persons refusing to work, or failing to provide slaves for road duty, forfeited $1.00 for each day of failure or refusal; a person refusing to serve as overseer forfeited $40.00. Overseers failing to keep the roads and bridges open, for as long as 15 consecutive days, except for cause, forfeited $15.00 for each occurrence. Neglect of duty on the part of persons appointed to locate the roads, and apportioners of road hands, was punishable by a forfeiture of $10.00.

The act of December, 1820, also made provision for the payment of damages to property owners injured by the establishment of the road. The amount of the award was determined by a jury, which was required to take into consideration such factors as the advantages and disadvantages accruing from the construction of the new road. Such damages as were assessed by the jury were payable out of the county treasury. The act originally stipulated that "all public roads shall not be less than thirty feet wide, and completely cleared of all trees, bars, and impediments, and stumps not to exceed four inches above the ground."

These roads amounted, of course, to little more than broad trails cut through the wilderness. They were rough at all times, but in wet weather were virtually impassible. Changes in specifications were later made to improve the roads, and in 1890 the law was amended to require all roads "to be cleared of trees and other obstructions and the stumps and roots to be cut out entirely." In the
early days, large streams and rivers were not bridged, but were crossed on ferry boats. Beginning in 1821, and for years afterwards, the Legislature enacted a number of local laws authorizing counties to finance the construction of roads and bridges by conducting lotteries. This method of financing highway construction was not finally proscribed until the present Constitution was framed in 1901.

An act of June 1, 1823, provided for the election in each county of four commissioners to serve for terms of one year. Any two of the commissioners, together with the judge of the county court, constituted a court competent to levy the county tax, establish and discontinue roads, and have and exercise all the powers in relation to roads, bridges, highways, ferries, and causeways then given to and exercised by the orphans' or the county court. This act was the foundation upon which the present day development of local highway administration was based. With certain variations, and with provision for a four-year term
of office, the commissioners’ court has survived to the present time. That body remains the form of county governing body contemplated in the general laws of the state, and, as such, remains responsible for local highway administration.

In 1819 the Legislature first authorized the construction and operation of toll roads and turnpikes. Many private turnpike corporations were organized in the state following its rapid settlement after 1820. Turnpike companies were chartered by the Legislature for a limited period of time, usually from ten to 20 years, to construct and operate toll roads, bridges, or ferries. The companies’ records were subject to inspection by the Legislature, and the county courts or commissioners had authority to supervise the establishment and maintenance of the roads. The statutes authorizing the projects prescribed the rates of charges, and authorized the erection of toll gates at intervals of a few miles.\(^7\)

\(^7\) Moore, op. cit., pp. 296-297.

The Legislature, in October, 1903, redefined and expanded the duties and authority of courts of county commissioners in relation to the location, construction, and maintenance of public roads and bridges. One important provision of the act, which constituted the first basic
advance in road construction and maintenance methods in Alabama in 80 years, authorized the court of county commissioners of each county to employ a civil engineer as supervisor of public roads for the county. The supervisor was required to make surveys, grades, maps, plats, and plans of the public roads, bridges, ferries, culverts, and drains as directed by the commissioners; and to superintend and direct the contractors, overseers, and employees in constructing and maintaining public roads and bridges. He was directed to perform all other duties required of him by the commissioners; and, when directed by the commissioners, to act as their agent in any work pertaining to the county public roads and bridges.

The act of October, 1903, also authorized the court of county commissioners to contract for the construction of roads and bridges at a negotiated price. Counties were authorized to lease convicts to the contractors and to require persons liable to road duty to work under the contractors, subject to the direction and supervision of the county commissioners. In August, 1907, the law governing county road contracts was revised to provide for the awarding of such contracts on a competitive bid basis. The counties were required to advertise these projects in newspapers and award the contracts to the lowest bidders. Following the enactment of the 1903 legislation, most of
the counties issued bonds, employed a temporary engineer, and contracted for the grading of a large mileage of roads.

As suggested above, responsibility for local highway administration in Alabama became centered in the county governing bodies early in the state's development. As at the present time, the general laws of the state vest in each county governing body "original and unlimited jurisdiction in relation to the establishment, change, or discontinuance" of public roads and bridges within the county. Similarly, the county governing bodies have complete jurisdiction and powers for the maintenance and improvement of the established road system. They also possess the right of eminent domain for purposes of establishing and changing public roads and bridges in their respective counties.

8. In former years, the highway function in several counties was vested in a separate highway board or commission. In recent times, such a board was in existence only in Winston County, and this board was abolished in 1955. See Act No. 84, H. 237, effective June 27, 1955.


10. Section 43, Title 23, Code of Alabama (1940).

Administration of the highway function. Although responsibility for highway administration is uniformly vested in the regular county governing bodies, there is in practice considerable variation among the counties in the manner in which the function is administered. In most counties the highways are administered, either wholly or partly, under the "district" system. The typical Alabama county is divided into districts, not primarily for purposes of road maintenance and construction, but to achieve areal representation on the county governing body. This system of representation, however, has contributed directly to the development of the district system of working the county roads. "When each member, by the manner of his election, is made responsible to a different district, the natural disposition of each member is to be chiefly, perhaps exclusively, interested in the roads of his district; and the other members are likely to defer to his judgment in all matters affecting his district."


Where the district method of administration is used, each member of the governing body usually receives an approximately equal share of available road funds, maintains his own road crew and equipment, and plans, supervises, and
controls the road activities carried on in his district. Frequently (as in the case of Marshall and Colbert counties), local laws expressly provide for the operation of county roads on the district basis.

In approximately one-half of the counties a distinction apparently is made between roads for the construction of which state aid is received and roads constructed entirely by the counties. In these counties, it is understood that state-aid (or farm-to-market) roads are constructed under the supervision of the county engineer on the basis of the county as a unit; but that county roads other than farm-to-market roads are constructed, and all county roads (both farm-to-market and other) are maintained, by the county commissioners on the district basis.

A number of counties employ, at least to some extent, a centralized system of highway administration commonly known in the state as the "unit" system. Where the unit system is utilized, the functions of planning, purchasing, construction, and maintenance, with respect to the county
road system, are in varying degrees administered on the basis of the county as a whole, or a unit. Under this system, the governing body functions as a board, and exercises its authority through the county engineer. In some instances, the unit system has been adopted by action of the county governing body;\textsuperscript{15} in others the system has been instituted by local acts of the Legislature.\textsuperscript{16} Eight counties have transferred responsibility for the construction and maintenance of all roads and bridges (but not for their location) to the State Highway Department.\textsuperscript{17} In the remaining counties of the state, road maintenance and construction are administered on the district basis entirely.

\textsuperscript{15} Barbour, Dallas, Hale, Jefferson, Lowndes, Mobile, Montgomery, and Talladega.

\textsuperscript{16} Chilton, Henry, Houston, St. Clair, Shelby, and Sumter.

\textsuperscript{17} This action was taken in each case by a local act of the Legislature. The counties of Baldwin, Jackson, and Franklin in 1951; Lauderdale in 1953; Cherokee and Cullman in 1955; and DeKalb and Winston in 1957. In 1956, the Winston County board of revenue entered into a contract with the State Highway Department whereby the state department assumed responsibility for road maintenance and construction in that county, but, as noted, the arrangement was provided for by law in 1957.
entirely; (2) the construction of farm-to-market roads on a unit basis, coupled with the construction of other county roads and all maintenance work on the district system; (3) the unit system; and (4) the transfer of responsibility for road maintenance and construction to the State Highway Department.

Notwithstanding the widespread use of the district system in Alabama, there is little to commend its perpetuation. During the early stages of the state's development, it was a useful if not a necessary method by which to administer the highway function. But under modern conditions district administration is subject to increasing criticism. Serious administrative and political consequences are attributable to the district system of highway administration, and among these the following are perhaps the most significant: division of the county into areas too small for efficient operation; small and irregular purchasing by the individual commissioners, resulting in high unit costs; duplication of equipment, personnel, and effort; possible division of the residents of the county into antagonistic factions, each seeking the interest of its district rather than the interest of the county as a whole; scattered responsibility; and weakened popular control of the county highway function.

As noted previously, the district system of electing
members of the county governing body tends to influence the utilization of the district method of highway administration. There is, therefore, a direct relationship between the method of selecting county commissioners and the view which they are likely to take of county affairs. The district system of highway administration will remain a serious problem of Alabama county government until this relationship is properly founded on the county in its entirety.

There is, however, one factor which ameliorates (to some extent) the decentralized system of county highway administration prevalent in Alabama. Where the judge of probate is chairman of the county governing body, that officer may exercise a considerable influence over the manner in which the commissioners administer the county roads. The judge of probate is not concerned with the direct administration of the highway function, and his influence is normally in the area of general supervision and coordination. In some counties he may be the real authority in regard to highway administration; but his position tends to vary considerably from county to county, depending upon the local political situation.18

As indicated above, it became possible after 1903 for counties to employ a road superintendent to exercise general supervision over the construction and maintenance of county roads and bridges. This official functioned under the direction of the county governing body; and, whether provided for under general or local law, his existence did not necessarily mean (appearances to the contrary) that the county possessed centralized authority and responsibility with respect to highway administration. It appears that in most counties the actual authority remained in the hands of the individual commissioners.19


**County engineer.** The office of road superintendent has now given way to the office of county engineer, which was created by general legislation enacted in the year 1939. In that year, the Legislature authorized the county governing bodies to employ an engineer, who was to engage in no other employment, and whose salary was to be fixed by the governing body. Under the terms of the act of 1939, no person is eligible for appointment to the office of county engineer unless he is qualified to practice engineering and land surveying and has had at least three years
experience in the maintenance and construction of highways. The State Highway Department makes grants of up to $3,000 a year to each county, to be applied toward the payment of the engineer's salary. Subject to the approval and supervision of the county governing body, the county engineer may (1) employ, supervise, and direct the employees necessary to maintain and construct the county public roads and bridges; (2) perform such engineering and surveying service as may be required of him, and prepare and maintain the necessary maps and records; (3) maintain the accounting records necessary to reflect the cost of the county highway system; and (4) perform such other duties as may be required of him in connection with the operation of a county highway system. Where the unit system of highway administration is utilized, the position may have real significance; but under the district system the engineer's influence is likely to be relatively minor.

Contracts. State law permits the counties to make
contracts with independent contractors for the construction or repair of county roads and bridges; but where the estimated cost of the work exceeds $250, such contracts may be made only after advertisement for 30 days in some newspaper published in the county. The advertisement must describe the character of the work to be done and the time and place of letting the contract, and the contract must be awarded to the lowest reasonable and responsible bidder. Where the estimated cost of the work exceeds $2,500, the advertisement must also be made once a week for 30 days in a daily newspaper published in the state. 23


Generally speaking, these provisions have proved quite effective in contributing toward the maintenance of free and open competition among contractors for county road work.

**Highway funds.** The funds with which Alabama counties finance the highway function are derived from a number of sources. The Constitution of Alabama authorizes a maximum county property tax of 2½ mills for roads and bridges. 24

24. Article XI, Section 215. See, also, Chapter X, below.

Subject to approval at a referendum, and its constitutional debt limit, a county may issue bonds to provide
for the construction and improvement of highways and bridges. In addition, the Legislature has enacted a number of local laws authorizing specific counties to levy county gasolines taxes. Aside from these revenue sources, however, there are few methods available to the counties to raise funds locally for highway purposes. Consequently, the counties have come to depend to an increasing extent upon the state for funds with which to finance the highway function.

Since 1919 the counties have been granted a portion of the receipts derived from state motor vehicle registration and license fees. Local shares of such receipts are distributed among the counties and cities of the state on the basis of motor vehicle registrations. Thirty-seven per cent of the receipts are distributed to the state, and 63 per cent to the municipality in which the owner of the vehicle resides or to the county if the owner resides outside an incorporated city or town. Counties also receive three-fifths, or 15 cents, of the 25-cent fee allowed judges of probate for receiving the application and fee for a driver's license and for the issuance of a

However, these sources of shared funds have long been overshadowed in fiscal importance by the state gasoline tax.

Three-sevenths of the proceeds of the state gasoline tax, or three cents per gallon, is distributed equally among all the 67 counties of the state. During the fiscal year 1955-56, Alabama counties received almost $25,500,000 in shared revenues from this source alone. Moreover, the Farm-to-Market Road Act of 1943 requires that one additional cent per gallon of the state gasoline tax be returned to the counties in the form of grants for road construction. Frequently, the counties issue interest-bearing warrants in anticipation of the shared revenues derived from the state gasoline tax.

The amount of interest payable on such warrants is usually relatively low. Interest on warrants outstanding in 1956 ranged from as little as 1½ per cent to as much as 4 or 5 per cent in a few cases. The exact amount apparently depends not only upon prevailing rates, but also upon the amount of indebtedness incurred by a county. Generally, it seems that the rate of interest increases as the amount of outstanding warrants increases.
Alabama law makes provision for state inspection of the manner in which the counties expend their gasoline tax receipts. The State Highway Department has the right to inspect the work upon which such funds are expended. If it is found that the locally shared proceeds of the state gasoline tax are not being expended profitably or correctly, that fact must be reported to the Chief Examiner of Public Accounts. If that officer's examination confirms the allegations, he must report the violation to the Attorney General, who must then institute proceedings against the offenders. Conviction is punishable as a misdemeanor.29

29. Section 655, Title 51, Code of Alabama (1940).

There was adopted in 1951 an "Anti-Diversion Amendment" to the state Constitution, which, with certain exceptions, restricted the expenditure of revenues derived from state taxes levied against motor vehicles and motor fuels to highway purposes only.30

30. The amendment, number XCIII, reads as follows:
No moneys derived from any fees, excises or license taxes, levied by the state, relating to registration, operation, or use of vehicles upon the public highways except a vehicle-use tax imposed in lieu of a sales tax, and no moneys derived from any fees, excises, or license taxes, levied by the state, relating to fuels used for propelling such vehicles except pump taxes, shall be expended for other than cost of administering
such laws, statutory refunds and adjustments allowed therein, cost of construction, reconstruction, maintenance and repair of public highways and bridges, costs of highway rights-of-way, payment of highway obligations, the cost of traffic regulation, and the expense of enforcing state traffic and motor vehicle laws. The provisions of this amendment shall not apply to any such fees, excises, or license taxes now levied by the state for school purposes for the whole state or for any county or city board of education therein.

Although the amendment has reserved the benefits of motor vehicle taxation to highway users, its adoption nevertheless seems disadvantageous to the local governments, since most of them had formerly used a portion of the shared drivers' and automobile license proceeds for general purposes.

**State aid.** At the turn of the century, the counties in Alabama were solely responsible for the construction, repair, and maintenance of public roads and bridges. The Constitution of 1901 confirmed and continued the local system of highway administration, by means of a provision which prohibited the state to engage in work of internal improvement or to lend money or its credit in aid of such improvements. It was not until the adoption of Amendment I
of the Constitution, in 1908, that the state was permitted to engage in road construction and maintenance work.

Under the terms of this amendment, the state was authorized to apply the net proceeds of the state convict fund to the construction, repair, and maintenance of public roads and to make additional appropriations for this purpose.  

32. The convict fund was a fund in the state treasury composed of the earnings of the convict system, and was used to defray the expense of administering the system. These earnings were derived largely from the practice of leasing convicts as labor. The practice was employed by the counties as well as the state. As a result of popular sentiment for prison reform, which had been growing since the early 1880's and had reached intense proportions, the leasing of prisoners was ended by a legislative enactment of 1927. They may still be used, however, in connection with public works. See Moore, op. cit., pp. 771, 814-817. Amendment XII, adopted in 1922, deleted the reference to the convict fund, and authorized the Legislature "to appropriate funds" for the construction, maintenance, and repair of public roads, highways and bridges in the state.

In 1911 the Legislature enacted legislation creating the State Highway Department. The act provided that the department would be under the control of a commission of five members. Three members of the commission were appointed by the Governor, for terms of four years each, and the Senior Professor of Civil Engineering at the Alabama Polytechnic Institute and the State Geologist at the University of Alabama served as ex officio members. The commission appointed a State Highway Engineer, who served
at the pleasure of the commission, to act as the executive officer of the department. The act authorized the commission to establish a system of state highways which would connect each county seat with its neighboring county seat and would also connect with roads in bordering states at the boundaries.

The organization of the State Highway Department was subsequently altered at every session of the Legislature between 1919 and 1939. During this 20-year period, the supervisory authority of the department shifted back and forth between the commission form and the single executive. In 1939 the Legislature provided for a single executive, the Director of Highways, appointed by the Governor, as the head of the agency, and this organization remains in operation at the present time.

Despite its unstable organization, the State Highway Department has a background of collaboration with the counties in the construction of roads which dates to 1912—the year after the department was created. In that year the Legislature provided for an annual appropriation of $154,000, to be distributed among the counties in aid of road construction. The appropriation provided approximately $2,000 a year in state aid to each county. The counties were required to match the amounts of state-aid funds available to them. Although the construction work
was under the general supervision of the State Highway Department, some of the construction was done by contract. State-aid funds were allowed to accrue for two years, and any unused funds reverted, at the end of that time, for redistribution. With such limited funds, the program necessarily failed to produce much tangible evidence of success. Its significance, however, lies in its educational aspects. It identified the county with the state in a joint effort, and provided a foundation for the future development of state-county relations in the area of highway administration.

The Federal Aid Road Act of 1916 provided tremendous impetus to highway construction in the United States. In Alabama, new plans were made for the establishment of a state highway system which would connect the several county seats. The interested counties were consulted in establishing these connections. Implementation of the plan, however, was interrupted by World War I, and was further delayed for several years by a lack of funds with which to match the available federal grants. The counties were called on to provide the matching funds, and a number of the more prosperous counties advanced the necessary money, with the result that the state lost no federal-aid funds by default.

To provide a more adequate financial basis for the
construction, maintenance, and repair of public roads and bridges, Amendments XI and XXI of the Constitution were adopted in 1922 and 1927, respectively. Each of these amendments authorized the state to issue bonds, in an amount not to exceed $25,000,000, to finance the construction, repair, and maintenance of public highways and bridges within the state. Each of the amendments provided, also, that the State Highway Department should expend not less than $250,000 of the proceeds of the bonds in each of the counties. To create a sinking fund for the payment of the bonds issued under Amendment XI, the Legislature was directed to impose annual license taxes upon the operation of motor vehicles on the public highways. In 1923, the Legislature enacted legislation providing for an excise tax of two cents per gallon on gasoline. The proceeds of this tax were divided one-half to the state and one-half to the counties. The county share of the proceeds was divided equally among the counties, and was required to be used solely for the construction and maintenance of roads and bridges. To retire the bonds issued under Amendment XXI, in 1927, that amendment authorized the Legislature to impose an excise tax of two cents per gallon on gasoline in addition to the levy made in 1923. The proceeds of the 1927 gasoline tax levy were also divided one-half to the state and one-half equally among
the counties. The state's share of the proceeds of this levy was used, primarily, to retire the bond issue authorized by Amendment XXI. Any surplus remaining after the payment of this constitutional obligation could be used by the department for general construction and maintenance work. In February, 1935, the Legislature levied a further additional tax of two cents per gallon on gasoline, raising the total to six cents. The proceeds of this tax were distributed in the same manner as provided in the two previous levies—one-half to the state and one-half equally among the counties.33

33. The remaining one-cent per gallon tax was levied in 1955 for state purposes.

Following the bond issues of 1922 and 1927 the state inaugurated a grading program which improved almost all of the state highway system. However, the mileage of paving done under the program was relatively small. During the period 1935-1942 the state intensified its paving program, utilizing some county funds to obtain as much of the available federal funds as possible, with the result that some 90 per cent of the state highway system was paved by the end of the period. In making their contributions to the paving program, a number of counties imposed the condition that certain county roads be transferred to the state
highway system, for improvement under the paving program, and for future maintenance by the state rather than by the county. This inequality in the treatment of the counties caused considerable dissatisfaction with the paving program. Partly as a reaction against the unequal benefits to the counties under the paving program, but primarily as a response to demands for a modern state-aid program, the Legislature enacted the "Farm-to-Market Road Act of 1943," which is the foundation of the present program of state aid to counties for purposes of highway construction.\textsuperscript{34}

\begin{center}
\textsuperscript{34} Act No. 329, \textit{General Acts of Alabama}, Regular Session, 1943, p. 311, as amended.\end{center}

The Farm-to-Market Road Act provided for the creation of a Bureau of County Aid, within the State Highway Department, to administer the program of state aid in the construction of county roads. The Bureau of County Aid functions under the direction of a chief, who is appointed by the State Highway Director with the approval of the Governor. The chief of the Bureau of County Aid is subject to the provisions of the state merit system.

The act broadly defines the county roads eligible for aid under the program as "all public roads (including bridges) within a county and continuing into or through the corporate limits of any city or town in such county
which are not a part of the state highway system and which are sometimes called 'farm to market roads.' The program of state aid in the construction of county roads is financed with funds derived from the state excise tax on gasoline. It will be recalled that the proceeds of this tax, since its original levy in 1923, had been divided equally between the state and the counties. Under the terms of the Farm-to-Market Road Act of 1943, one cent per gallon of the state's share of the state gasoline excise tax was appropriated to establish a state county-aid fund.35 The act makes available to each county 1/67th (or an equal share) of these funds as a grant in aid of the construction of county roads, on the condition that the county appropriate an equal amount to match the amount of the grant.

The act requires each county, to become eligible for aid under the county road construction program: (1) by resolution, to establish a fund to be used to match the state-aid funds, as indicated above; (2) to employ a registered professional engineer as county engineer; and (3) to administer its county road operations on a unit system. The original purpose of the act, apparently, was to provide a sound, comprehensive basis for local highway
administration in Alabama, and the third condition, above, through the elimination of the district system of road administration, would have gone far toward the accomplishment of this purpose. This major step, however, was not to be taken. The bill, S. B. 360, was amended on its passage to include the following section: "Any county which has a county engineer as provided for herein shall be considered as operating its roads on a unit basis." 36


The effect of the amendment, of course, was to nullify completely the condition that, to be eligible for state aid, a county must administer its road system on the unit basis. It need merely employ a county engineer to be considered as doing so.

Briefly, the Farm-to-Market Road Act provides that, after preliminary authorization by the Bureau of County Aid and the preparation of satisfactory plans and specifications by the county engineer, the county initiating a construction project must enter into a contract with the State Highway Department, through the Bureau of County Aid, covering all the terms and conditions upon which the roads will be constructed. The county is required to acquire and furnish the necessary right of way before construction can be begun. The actual construction work
may be done either by county forces and equipment, or by independent contractors. In the latter event, the contract is between the county and the contractor. The state is not a party to the contract, but must endorse the contract before it is valid. Regardless of the method by which the construction is done, the county must first finance the project, and then claim reimbursement from the State Highway Department, through periodic estimates, of one-half the actual cost to the county. With the consent of the State Highway Director, the counties may anticipate the revenues receivable by them under the act and issue securities to finance their part of the construction program. The act further provides that Federal Aid (Secondary) may be matched by the state and a county, each participating equally, with funds made available under the state-aid program. All county roads constructed with state aid under the act must be maintained by the county in which the road is located. If any county fails to maintain any road constructed under the state-aid program to the satisfaction of the State Highway Department, it may decline, thereafter, to enter into further contracts with the county until the county makes adequate provision for the maintenance of the road.

The act authorizes the State Highway Department to make such rules and regulations, with reference to the type
of construction, materials, and all other details concerning the construction of the county roads, as are necessary or convenient to the administration of the program. Under the rules and regulations of the State Highway Department, each county must select a county road system, which, when improved, will provide an outlet to market within a few miles of the residents of any part of the county.37 Responsibility for determining the priority of improvement projects within the system was placed upon, and still remains with, the several counties.

The State Highway Department prescribes standards for location and plans, and requires the use of standard state highway department specifications for all materials and workmanship. The advice and assistance of each bureau of the State Highway Department is available to the county engineer of the county initiating a construction project under the farm-to-market program. In order to avoid confusion, all information and instructions are channeled to the county engineer through the division engineer of the division in which that county lies.38

37. Mr. Rutledge observed that the selection of county roads eligible for aid under the farm-to-market road program complied so closely with the requirements of the federal law that the Public Roads Administration accepted them, with only minor changes, as eligible for aid under the Federal Aid (Secondary) program.

38. The field organization of the State Highway
Department is based upon area. The state is divided into a number of areas, designated as divisions. The state highway forces in each division are under the supervision of the division engineer.

When the construction work is done by county forces, and with county equipment, the State Highway Department requires that suitable equipment, in proper balance, be provided and placed under the direction of a competent superintendent, subject to the supervision of the county engineer. Under the farm-to-market road program county road construction projects assume the nature of state construction projects. The county engineer serves as project officer, and is subject to the supervision of the district engineer. Materials used in such projects may be purchased through the Division of Purchases and Stores, of the State Department of Finance (the state purchasing agency), and state aid in connection with such purchases is limited to the current prices obtainable through this agency.

Summary and conclusions. In Alabama responsibility for local highway administration is uniformly vested in the regular governing bodies of the counties. In practice, however, there is little uniformity among the counties in the manner in which the highway function is actually administered. Approximately one-half of the counties construct farm-to-market roads on the basis of the county as
a unit, but construct other county roads and maintain all roads under the district system. Responsibility for the construction and maintenance of the roads in eight counties has been transferred to the state. A number of counties administer all their roads, to some extent, on the county unit system. The remaining counties use the system of district administration exclusively.

County highway administration in Alabama is largely financed by state gasoline tax subventions. Local road funds are derived almost entirely from a 2½ mill county tax on property. But on the other hand, three-sevenths of the state gasoline tax proceeds is divided among the counties for general highway purposes, and an additional one-seventh is returned to the counties in the form of grants for the construction of farm-to-market roads. It should be noted that in Alabama state highway aid is distributed equally among the counties. It would seem that a more effective method of apportionment would be to base the grants on the relative needs of the various counties for highway funds. The State Highway Department possesses powers of inspection and supervision over the expenditure of state funds granted to the counties for highway purposes; but, with the exception of grants for the construction of farm-to-market roads, such fiscal assistance
is not used in Alabama as a means of securing state control over the local highway function.

The most unfortunate feature of county highway administration in Alabama is the widespread tendency to use the district system of operation. Under modern conditions, the administrative and political consequences of the practice have become so severe as to necessitate its elimination throughout the state. A number of Alabama counties have transferred responsibility for the local highway function to the state. Ineffective highway operations at the county level can only result in a continuation of this trend. The counties of Alabama really have little alternative. The time has come when they must either administer their road systems as efficiently as possible, or gradually lose control of this, their most important, governmental function. General adoption of the county unit system should be the first step in the improvement of local highway management.
CHAPTER VII
EDUCATION AND LIBRARIES

Education Administration

Organization. County board of education. Responsibility for general administration and supervision of the public elementary and secondary schools in Alabama is divided between county school systems and independent city school systems. The county school system is composed of all public schools located within the county, except those in cities having city boards of education, and is controlled by an elective board of education. At the present time there are 45 independent city systems and 67 county systems, a total of 112 separate school systems in the state. The school laws provide that, by referendum, control of the independent city schools within a county may be vested in the county board of education.¹ But consoli-

¹. Sections 62, 71, 72, 73, 74, 82, Title 52, Code of Alabama (1940).

². In a few other counties, cities having the population required to establish separate school systems have not done so. These counties may also be considered as
having consolidated school systems. Section 270 of the Constitution allows Mobile County to maintain a different type of school system from that generally prevailing in the state.

County boards of education are composed of five members elected for overlapping terms of six years. The general school laws provide that board members must be elected by the qualified voters of the entire county, but local laws frequently require the election of board members from districts within counties.³ Vacancies on the county board of education are normally filled by a majority vote of the remaining members of the board; but if any vacancy is not filled in this manner within 30 days, the State Superintendent of Education fills the vacancy by appointment. A person appointed to fill a vacancy may hold office only for the duration of the unexpired term.⁴


⁴. Section 64, Title 52, Code of Alabama (1940). See Section 68, of Title 52, as amended, for the provisions of law regulating the compensation of members of county boards of education. The section now provides for a per diem of $7.50 per day, and expenses, for not more than 24 days during any one year.
of all public schools within the county, except the independent city schools. Specifically, its more important duties include the following: To determine, with the advice of the county superintendent of education, the educational policy of the county, and to prescribe rules and regulations for the conduct and management of the schools; to appoint, on recommendation of the county superintendent of education, all principals, teachers, and clerical and other assistants authorized by the board and to fix their salaries; upon the recommendation of the county superintendent, to arrange the county into one or more school attendance districts and to fix the location of schools; to see that the compulsory attendance law is enforced; to consolidate schools and provide the necessary transportation for pupils; to appoint local school trustees; and to appoint the county superintendent of education and fix his salary, except in those counties where the superintendent is elected or where his salary is fixed by law.5

5. Sections 69, 73, 76, 77, 86, 95, 100, as amended, 111, as amended, 261, Title 52, Code of Alabama (1940); The American Council on Education, op. cit., p. 230.

The Constitution of 1901 required the Legislature to maintain a system of public schools, which, it was further provided, should be racially segregated. Legislative enactments placed on the city and county boards of education
responsibility for carrying out these constitutional provisions. After the decision of the Supreme Court of the United States in the School Segregation Cases, the voters


ratified a constitutional amendment which, among other provisions, eliminated the state's constitutional obligation to provide public education, eliminated, also, the requirement for racial segregation in the public schools, and authorized the establishment of private schools and the payment of education grants for the benefit of the state's citizens.


An act of 1955 repealed the statutory requirements for segregated public schools, and vested in the local boards of education broad latitude in determining the schools which individual children would attend. The Legislature listed, however, a number of social and psychological factors (not including race) which the boards should consider in making their assignments of pupils to schools.

An act of 1957 directs each local board of education to close any school within its jurisdiction whenever it determines "that the continued operation of such school will be accompanied by such tensions, friction or potential disorder or ill will within the school as substantially to impair effective standards or objectives of education of its pupils, or by potential impairments of peace, order and good will in the community, school district, or county involved."  


Since the desegregation decision of the United States Supreme Court is not of automatic application, integration must be ordered by the courts in specific instances. Thus far, only one integration suit affecting the public elementary and secondary schools has arisen in Alabama, and in this case a special three-judge federal court sustained the constitutionality of Alabama’s legal provisions regulating the assignment of pupils to such schools.  

10. The decision was rendered on May 9, 1958. It is reproduced in Alabama State Bar, *The Alabama Lawyer* (July, 1958), pp. 244-259.

Though it is possible under the school placement law for the children of one race to be admitted to schools provided for the other race, in actual practice the local
boards of education have continued to follow the state's traditional policy of segregation.

**County superintendent of education.** The general school laws of Alabama require the board of education of every county to appoint a county superintendent of education, an officer who functions as secretary and chief executive of the board.\(^11\) Essentially, the duties of the county superintendent of education involve (1) assisting the board in planning county educational policy and (2) carrying out the policies established by the board.

The public school system in Alabama was originally established in the year 1854. At that time provision was made for a three-member commission to head the school system of each county. The commission system proved short-lived and after a period of two years a change was made to provide for a county superintendent of education elected by popular vote. In 1868 authority to appoint the county superintendents of education was concentrated in the office of the State Superintendent of Education. This plan was discontinued in 1871. From 1871 until 1876, the office of county superintendent of education
was once again elective. In 1876 authority to appoint the county superintendents of education was again vested in the office of State Superintendent of Education. By 1884, however, the county board of education again appointed the county superintendent in most of the counties. Local laws providing for elective county superintendents gradually diminished the number of counties in which the county board of education appointed the superintendent. By the turn of the century, there remained only 14 counties in which the board appointed the superintendent of education. General legislation adopted in 1915 once more vested in the county board of education authority to appoint the superintendent. By 1923, however, local laws were again encroaching on this general principle and providing for elective county superintendents of education. By the year 1932, election of the county superintendent of education was authorized in a majority of the counties.\textsuperscript{12} The trend has continued, although at a reduced pace, and at the present time the office of county superintendent of education is elective in 46 counties and is appointive in 21 counties.

Educators generally agree that more effective school
administration is obtained by appointment of the superintendent, rather than by his popular election. The reasons upon which this opinion is based were expressed on one occasion as follows:

1. The selection of any employee for whose work technical education and successful previous experience are essential can best be made by a small group. A committee representing the people is in better position to make investigations and to evaluate qualifications than is the voting public.

2. Business and civic organizations in general have boards of directors; each board selects an executive to be responsible for the successful operation of the concern. The board of directors is responsible for the policies and the executive is responsible to them for carrying out the policies. In school administration, if the county superintendent is elected by the people, he may take his responsibility from them rather than from the county board, which is also elected by the people. Sooner or later conflicts of authority and responsibility are likely to develop.

3. An appointed superintendent need not consider the political implications of every recommendation. He is in much better position to base his recommendations as to policies on the ultimate needs of the children than a superintendent who has to depend upon a majority vote of the people for re-election.

4. When selecting a superintendent for appointment, the board is not restricted to a person from the area included in the school system. It may select the most capable person for the position, regardless of his place of residence. The small counties of Alabama in particular are likely to be handicapped by the elective system because of the limited number of residents who are qualified to serve as county superintendents. 13

13. Ibid., p. 235.
These reasons notwithstanding, the people of Alabama have displayed a general tendency to prefer the elective rather than the appointive county superintendent.

As suggested above, it is generally believed that appointment rather than election is the better method of selecting an officer or employee whose work requires technical training and experience. Fortunately, the disadvantages inherent in the elective system of selecting the county superintendent of education are somewhat mitigated through provisions of general law which establish minimum qualifications for the office. An act of 1943 prescribes the qualifications of the office of county superintendent of education as follows:

No person shall be eligible for appointment by any county board of education, or for political party nomination, or for election to the office of county superintendent of education of any county who does not hold an Alabama certificate in administration and supervision based upon requirements established by the state board of education for such certificate, and who does not submit proof to the state superintendent of education of three years of successful educational experience as teacher, principal, supervisor, superintendent, educational administrator, or instructor in school administration during the five years next preceding his appointment or election; provided, however, that time spent in the armed forces of the United States during World War II shall not be construed as breaking continuity of educational experience; provided, that a person so appointed by the county board
of education need not be a resident or a qualified elector of the county in which he is to serve;..." 14

14. Section 103, Title 52, Code of Alabama (1940), as amended.

The minimum requirements of the state board of education for an Alabama certificate in administration and supervision are equivalent to the requirements for the highest teacher's certificate based on the Bachelor's degree. 15 In order to enforce the prescribed standards,


state law makes it a misdemeanor to print on a ballot as a candidate, or for nomination as a candidate, for the office of county superintendent of education the name of any person who has failed to file with the judge of probate a certificate signed by the State Superintendent of Education that he possesses such a certificate of administration and supervision. 16


In counties where the superintendent of education is elected by popular vote, the successful candidate takes office on the first day of July next following his election,
and serves for a term of four years. Where the county

17. Act No. 569, General Acts of Alabama, Regular
Session, 1943, p. 573.

superintendent of education is appointed by the county
board of education, the superintendent serves for a term
of not less than two nor more than four years. His term
also commences on the first day of July next following
his appointment. The county superintendent of education

18. Section 102, Title 52, Code of Alabama (1940).

must devote his full time to public school business. Ex­
cept where his salary is fixed by law, he receives such
salary and travel expenses as the county board of edu­
cation may direct. Where the salary of the county super­
intendent of education is prescribed by law, the county
board may pay the superintendent, in addition, travel
expenses not in excess of $600 annually. 19

19. Section 111, Title 52, Code of Alabama (1940),as
amended. In 1955 the average (mean) annual salary of the
county superintendent was approximately $5,600. The aver­
age was computed by the writer from the salaries presented
in the annual report of the State Department of Education.
Teachers' salaries are standardized on the basis of their
certification. In 1956 the average annual salary of ele­
mentary teachers was $3,136; that of secondary teachers
was $3,486. Each of these was approximately $1,000 below
the national average. The salaries of white and Negro
teachers have been equalized for many years, since, as
noted, standard salaries are paid on the basis of certi­
fication. In fact, the average Negro teacher's salary
usually exceeds that of the average white teacher. It
did not in 1956 (the average Negro teacher's salary was
six dollars less); but in 1957 the average Negro teacher received $3,334, while the average white teacher received only $3,306. The obvious explanation for the higher salaries is that, on the average, Negro teachers have higher certificates than white teachers. See the annual reports of the State Department of Education for information concerning the salaries of Alabama teachers.

Boards of school trustees. Alabama law also provides for a board of trustees for each school in the county system. Trustees function as liaison between the local community served by the school and the county board of education. The county board of education appoints three trustees for each school in the county system, from a list of six persons nominated by the patrons of the school. Trustees serve for a term of four years. They care for school property, attend to the general interest of the school, and report to the county board, from time to time, on the progress and needs of the school and the wishes of the people in regard to the school. The county board of education fills vacancies on the board of trustees from the original list nominated by the patrons of the school until the names on the list are exhausted.20

20. The term "patron" as used in the law refers to the parents and guardians of children in attendance at the school. Section 100, Title 52, Code of Alabama (1940), as amended; Reports of the Attorney General, April-June, 1943, p. 92.

The most significant powers possessed by boards of school trustees deal with the employment and dismissal of teachers.
The board of trustees may, by unanimous consent, refuse to accept the assignment of any newly employed teacher to the school of which they are trustees. Similarly, the board of trustees may file with the county board of education charges requesting the removal of the principal or any teacher in the school. Members of the boards of trustees serve without compensation.

21. Sections 138-147, Title 52, Code of Alabama (1940). The powers of the board of trustees with respect to the appointment and dismissal of teachers must be viewed in the light of the teacher tenure act. The cancellation of an employment contract with a teacher on continuing service status may be made only for incompetence, insubordination, neglect of duty, immorality, justifiable decrease in number of teacher positions, or other "good and just" cause. Cancellation may not be made for political or personal reasons. Section 358, Title 52, Code of Alabama (1940), as amended and re-enacted by Act No. 773, Acts of Alabama, Regular Session, 1953, p. 1040.

School finance. Local support of public schools.
The public schools of Alabama are financed by local appropriations, greatly augmented and supplemented by state appropriations in aid of education. The chief source of local support for the county school system is a seven-mill tax on property. The seven-mill school tax is composed of a one-mill county tax authorized by Section 269 of the state Constitution, a three-mill county tax authorized by a constitutional amendment of 1915, and an additional three-mill tax, levied by school districts, also
authorized by the 1915 amendment. Since the rates of taxation here mentioned are the maximum rates allowed under the Constitution, counties wishing to levy property taxes for school purposes in excess of seven mills may do so only through constitutional amendments authorizing the additional taxes. A number of counties have secured the adoption of such amendments, and levy school taxes above the usual rate of seven mills. The highest property tax levied by any one county for the support of public schools is 12 mills.

Additional funds for the support of the county school system may also be obtained through local acts of the Legislature providing for the levy of non-property taxes for school purposes. Moreover, Section 259 of the Constitution dedicates the total amount of poll taxes to the support of the schools located in the county in which the taxes are collected. Furthermore, certain miscellaneous local sources also contribute to the support of the county.
schools. These sources may include, for example, appropriations from a city council or county governing body, gifts, and student fees. The county school systems in the state received, in 1955-1956, the sum of $17,355,787 from the local sources described above. This amount was distributed among the various sources as indicated in Table VI.

**TABLE VI**

COUNTY SCHOOL RECEIPTS FROM LOCAL SOURCES, 1955-1956

<table>
<thead>
<tr>
<th>Source</th>
<th>Receipts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poll tax</td>
<td>$371,825</td>
</tr>
<tr>
<td>County 4 mill tax</td>
<td>8,873,749</td>
</tr>
<tr>
<td>County special and other taxes</td>
<td>2,307,027</td>
</tr>
<tr>
<td>District 3 mill tax</td>
<td>4,057,597</td>
</tr>
<tr>
<td>District special and other taxes</td>
<td>1,104,889</td>
</tr>
<tr>
<td>Appropriations from city councils</td>
<td>222,754</td>
</tr>
<tr>
<td>Appropriations from county governing bodies</td>
<td>182,752</td>
</tr>
<tr>
<td>Philanthropic</td>
<td>8,832</td>
</tr>
<tr>
<td>Fees, donations, and miscellaneous</td>
<td>226,362</td>
</tr>
<tr>
<td>Total county school receipts from local sources</td>
<td>$17,355,787</td>
</tr>
</tbody>
</table>


State support of public schools. State monies used for the support of the public elementary and secondary schools are appropriated from two funds: the public
school fund, and the Alabama special educational trust fund. Of the two funds, the latter is much the more significant.

The Constitution of 1901 dedicates the revenue from three mills of the six and one-half mill state tax on property, the proceeds from public school lands, and all estates of deceased persons who die without leaving a will or heir, to the maintenance of the public schools.26

26. Constitution of Alabama, Article XIV, Sections 257, 258, 260. As mentioned above, Section 259 also dedicates all poll taxes collected to the support of education. Poll tax receipts, however, accrue to the counties and not to the state, and are to be used "for the support of the public schools in the respective counties where collected."

All amounts derived from these sources accrue to the public school fund. The public school fund also derives revenue from the income tax, in the form of a transfer known as "Property Tax Relief." This is an amount transferred to the public school fund from income tax revenues to replace state property taxes lost through homestead exemptions. Other minor sources also provide contributions to the public school fund. This fund, however, is primarily composed of the proceeds of the three mill tax on property. As illustrated by Table VII, the three mill tax on property contributed $4,642,824 of the $6,630,000 which accrued to the public school fund during the year 1954-1955.
The second, and by far the larger, fund from which state revenues are disbursed for public school support is the Alabama special educational trust fund, a fund which is composed of a number of earmarked tax sources. Among these taxes are (1) the hydro-electric tax, (2) the railroad receipts tax, (3) the telephone company receipts tax, (4) the express company tax, (5) the sleeping car company tax, (6) the iron ore tonnage tax, and (7) store license taxes. As pointed out in Table VII, however, four additional earmarked taxes— the sales, income, tobacco, and use taxes— produce the bulk of the revenues accruing to the special educational trust fund. Indeed, the sales tax regularly produces well over half of the total state revenue expended for public school purposes. In addition to the earmarked revenues, the Legislature sometimes makes an appropriation from the state general fund to the special educational trust fund. During the year 1954-1955 a total of $70,230,083 accrued to the public school fund and the special educational trust fund for the support of public elementary and secondary schools.
TABLE VII

SOURCES OF STATE SCHOOL REVENUE, 1954-55

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Earmarked taxes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. For public school fund:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State ad valorem 3 mills...</td>
<td>$4,642,824</td>
<td>6.6</td>
</tr>
<tr>
<td>Transfer from educational trust fund</td>
<td>500,000</td>
<td>0.7</td>
</tr>
<tr>
<td>State income tax to replace 3-mill tax lost by homestead exemptions</td>
<td>1,221,371</td>
<td>1.7</td>
</tr>
<tr>
<td>b. For educational trust fund:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales</td>
<td>$55,208,550</td>
<td>69.9</td>
</tr>
<tr>
<td>Use</td>
<td>4,459,786</td>
<td>5.4</td>
</tr>
<tr>
<td>Tobacco</td>
<td>7,377,570</td>
<td>9.0</td>
</tr>
<tr>
<td>Hydro-electric companies</td>
<td>600,833</td>
<td>0.7</td>
</tr>
<tr>
<td>Railroad companies</td>
<td>628,323</td>
<td>0.8</td>
</tr>
<tr>
<td>Iron ore</td>
<td>163,878</td>
<td>0.2</td>
</tr>
<tr>
<td>Coal tonnage</td>
<td>147,688</td>
<td>0.2</td>
</tr>
<tr>
<td>Telephone companies</td>
<td>922,773</td>
<td>11.4</td>
</tr>
<tr>
<td>Store licenses</td>
<td>67,272</td>
<td>0.8</td>
</tr>
<tr>
<td>Pullman car companies</td>
<td>20,000</td>
<td>0.2</td>
</tr>
<tr>
<td>Express companies</td>
<td>15,899</td>
<td>0.2</td>
</tr>
<tr>
<td>Income tax investment</td>
<td>153,664</td>
<td>1.9</td>
</tr>
<tr>
<td>Miscellaneous and balance</td>
<td>173,581</td>
<td>2.1</td>
</tr>
<tr>
<td>Income tax</td>
<td>14,131,725</td>
<td>17.1</td>
</tr>
<tr>
<td>Surplus account</td>
<td>3,502,279</td>
<td>4.3</td>
</tr>
<tr>
<td>Total for elementary and high schools</td>
<td>$62,600,083</td>
<td>89.2</td>
</tr>
<tr>
<td>2. Legislative appropriations</td>
<td>1,000,000</td>
<td>1.4</td>
</tr>
</tbody>
</table>
Table VII (contd.)

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. Income from permanent school funds /accrues to public school fund/</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Income from permanent school funds</td>
<td>$ 251,557</td>
<td>0.4</td>
</tr>
<tr>
<td>b. Income from fees and rentals</td>
<td>$14,248</td>
<td>0.0</td>
</tr>
<tr>
<td>Total</td>
<td>$70,230,083</td>
<td>100.0</td>
</tr>
</tbody>
</table>


Table VIII presents the amounts of state appropriations for public school purposes during the period 1944-56. 27

27. A proration of the appropriations made for the years 1949-50 and 1950-51, caused by the failure of revenues to meet expectations, caused the actual appropriations for those years to amount to $49,434,447 in 1949-50 and $51,562,521 in 1950-51.

Increasing demands for school support since World War II have been met primarily from state sources; the table reflects two recent increases in state tax revenues for such purposes. In 1947 the voters approved a constitutional amendment pledging income tax surplus and proceeds, in excess of the amounts necessary to replace property tax revenues lost through homestead exemptions, exclusively for teachers' salaries. These funds first
became available in the year 1947-48. In 1951 the Legislature increased the rate of the sales and use taxes from 2 per cent to 3 per cent. Additional revenue from these taxes became available in the year 1951-52.28

28. No new education taxes were levied in 1955-56. The increase is largely explained by three factors: A substantial increase in sales tax proceeds; the adoption of the withholding method of collecting the state income tax; and a "windfall," in the form of double income tax collections during the first year in which taxes were withheld.

TABLE VIII

STATE APPROPRIATIONS FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOLS, 1944-45 THROUGH 1955-56

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1944-45</td>
<td>$19,236,507</td>
</tr>
<tr>
<td>1945-46</td>
<td>25,631,056</td>
</tr>
<tr>
<td>1946-47</td>
<td>29,983,729</td>
</tr>
<tr>
<td>1947-48</td>
<td>44,602,758</td>
</tr>
<tr>
<td>1948-49</td>
<td>45,217,567</td>
</tr>
<tr>
<td>1949-50</td>
<td>51,668,971</td>
</tr>
<tr>
<td>1950-51</td>
<td>52,028,153</td>
</tr>
<tr>
<td>1951-52</td>
<td>64,060,400</td>
</tr>
<tr>
<td>1952-53</td>
<td>66,344,900</td>
</tr>
<tr>
<td>1953-54</td>
<td>70,459,771</td>
</tr>
<tr>
<td>1954-55</td>
<td>70,230,083</td>
</tr>
<tr>
<td>1955-56</td>
<td>90,469,301</td>
</tr>
</tbody>
</table>

Apportionment of state aid. In accordance with constitutional requirements, the public school fund is disbursed among the local school systems on a per capita basis, as shown by the school census. The Alabama special educational trust fund is disbursed among the local school systems in accordance with a formula, known as the "minimum program formula," the purpose of which is to attempt to distribute state funds among the local school units on the basis of need, in such a manner as to equalize the costs of providing a statewide minimum school program.

The minimum program formula, in its essentials, operates as follows. First, the cost of the minimum school program to each school system is calculated on the basis of the cost of the following four elements: (1) teachers' salaries, (2) transportation, (3) current expenses other than salaries and transportation, and (4) capital outlay. The sum of these elements of cost represents the total cost necessary to provide the minimum school program as defined by law and the rules and regulations of the State Department of Education. The second step involves the computation of the financial ability of each school system.
to support the minimum program. The financial capacity of a school system is calculated by determining the average of two index figures—an economic index and an assessed valuation index. The economic index consists of a weighted average of six economic factors (sales tax collected, passenger automobile licenses sold, income tax collected, assessed valuation of public utilities located therein, farm income, and value added by manufacture), each expressed as a percentage of the respective state totals. The assessed valuation index is the percentage of the total state assessed property valuation located in each city or county. As indicated above, the economic index and the assessed valuation index are added and then divided by two to obtain the average index of the school unit's ability to support the minimum program.

The next phase of the process involves the calculation of the amount of local funds available to each school system to meet the costs of the minimum program. A property tax of five mills is required as the minimum county effort in support of education. In order to determine the total amount of local school funds available, the total assessed valuation of the state (anachronously, as of October 1, 1938), is multiplied by five mills. Each local system's ability to support public education is determined by applying its average index of financial
capacity against the figure representing the total amount of local school funds available.\textsuperscript{30} Because the basis of this calculation is fixed, it always produces the sum of $4,676,485 as the theoretical total amount of local support available for education. All school units levy property taxes in excess of five mills for school purposes. Actually, the public school systems received, during 1954-55, some $21,564,000 from local taxes. Excess funds available to the school system may be used for the enrichment of the local school program beyond the requirements of the minimum program. The amount of equalization aid received by each school system is determined by subtracting the amount regarded, under the formula, as available to the system for the support of education from the estimated cost of providing the minimum program.\textsuperscript{31}

\textsuperscript{30} A detailed description of the index of financial capacity may be found in Francis G. Cornell, and Roe L. Johns, "Alabama's New Index of Local Ability to Pay for Education," \textit{The School Executive}, June, 1941.

\textsuperscript{31} The amount which each school system receives from the public school fund is also charged against each system in determining its share of the minimum program fund.

In addition to general aid received from the public school fund and equalization aid received from the special educational trust fund, the local school systems also
receive two classes of special state aid. In Alabama, free textbooks are provided school children attending the elementary grades (grades one through six). During 1954-55, the state appropriated $450,000 for such free textbooks. In addition to federal funds, the sum of

\[ \text{This sum does not permit the state actually to furnish all the necessary textbooks. Pupils in the elementary grades must still purchase many of their books.} \]

$2,452,900, in state funds, was also apportioned among the local school systems, during the year 1954-55, for the support of vocational education. As illustrated by Table IX, the state appropriated during the school year 1954-55 a total of $70,230,083 toward the operation of public elementary and secondary schools. Of this amount, $60,647,183, or slightly more than 86 per cent, was in the form of equalization aid appropriated from the special educational trust fund in support of the minimum school program.

33. The above discussion of state support of the public schools is based on Alabama Education Association, op. cit., passim.; National Education Association, State Support of Public Schools in Alabama, State School Finance Systems, Elementary and Secondary Schools, Revised, December, 1955; and information furnished the writer by the Alabama Legislative Reference Service. See Article 3, Chapter 10, Title 52, Code of Alabama (1940), for provisions of law relating to the minimum program fund.
TABLE IX

DISTRIBUTION OF STATE AID TO EDUCATION, 1954-55

<table>
<thead>
<tr>
<th>Type and percent of aid</th>
<th>Name of fund</th>
<th>Basis of distribution</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. General aid (9.5%)</td>
<td>Public school fund</td>
<td>School census</td>
<td>$6,630,000</td>
</tr>
<tr>
<td>2. Equalization aid (86.4%)</td>
<td>Minimum cost of minimum program fund</td>
<td>Difference between cost of minimum program and specified funds available to local school administrative units to meet such cost</td>
<td>$60,647,183</td>
</tr>
<tr>
<td></td>
<td>Revolving fund</td>
<td>Same as minimum program</td>
<td>$50,000</td>
</tr>
<tr>
<td>3. Special aid (4.1%)</td>
<td>Vocational education fund</td>
<td>Entire cost paid from state and federal funds</td>
<td>$2,452,900</td>
</tr>
<tr>
<td></td>
<td>Free text- Free text- Children enrolled books books fund</td>
<td>(Items 1 plus 2 plus 3 equal 100%)</td>
<td>$450,000</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>$70,230,083</td>
</tr>
</tbody>
</table>

Local finance administration. County school funds, including state funds apportioned among the counties, are maintained separately from all other county funds, and are under the control of an official known as the custodian of county school funds. The custodian of county school funds is appointed by the county board of education, and may be the county treasurer, the secretary to the county superintendent of education, or some other qualified person. Often, a responsible person employed in the bank in which the funds are deposited serves as custodian of county school funds. The custodian releases the public school funds of the county on the order of the county superintendent of education, but all such orders must be approved by the chairman of the county board of education. The custodian maintains records of all receipts and expenditures, and must make such reports as are required by law, by the county board of education, or by rules and regulations of the State Board of Education. He holds office at the pleasure of the county board of education, and receives a small salary for his service, as fixed by the board. 34

34. Sections 70, 276, 278, Title 52, Code of Alabama (1940).

Alabama law requires the local school systems to
prepare and adopt an annual budget before the first day of July of each year. The budget is prepared by the county superintendent and is approved and adopted by the county board. The county school budget must be submitted to the State Superintendent of Education for his approval. No local school system is eligible to receive state financial aid until a budget has been submitted to, and approved by, the State Superintendent of Education. Once adopted, the budget normally must be followed during the entire fiscal year to which it relates. The county superintendent may make changes in the budget, with the approval of the county board, so long as no deficit is incurred thereby and the schools continue, under such changes, to be operated in accordance with the rules and regulations of the State Board of Education.  


The board of education of any county may borrow money in anticipation of current revenues to meet current expenses. 36 Subject to the approval of the State Superintendent of Education, who must act in accordance with the rules and regulations of the State Board of Education,

any county or school district which levies a special school tax may also issue capital outlay bonds to erect, purchase, or improve school sites, grounds, buildings, or equipment. However, the amount of such bonds to be retired each year may not exceed 80 per cent of the annual proceeds of the special tax. If there is a special sales, gross receipts, or use tax levied in the county, by local act of the Legislature, for public school purposes, the board may issue tax anticipation warrants and pledge for their repayment all or any part of the revenue derived from the special tax. The proceeds of the warrants may be used for the same purposes as those for which the tax was levied. Such warrants are not an obligation of the county; they are payable solely from the proceeds of the special tax. The interest rate on these warrants may not exceed 4 per cent per annum, payable semi-annually.


LIBRARY SERVICE

County library boards. Under authority granted by general legislation, the governing body of any county may establish and maintain, or aid in establishing and maintaining, free public libraries, either separately or in connection with the public schools. To that end the county may accept gifts, donations, and bequests of land, buildings, or money, and appropriate public funds in support of the library function. 39 Powers of government and supervision of a county library are vested in a library board, which is composed of five members appointed by the county governing body for overlapping terms of four years. All vacancies on the board are filled by the county governing body. Members of the library board serve without compensation. Counties and municipalities are authorized to enter into agreements for the provision of joint library service, and to establish joint library boards. 40


40. In counties in which a city having a population of not less than 65,000 already maintains a free public library, a separate county library board need not be appointed. In such counties, the county library and the appropriations made for library service are administered by the existing library board on such terms as may be
agreed upon between the county governing body and the library board.

County library boards have full authority to control the expenditure of all funds received or appropriated for library service. They also possess authority to erect or rent buildings; to appoint a librarian and other necessary employees; and to manage and control the library in such a manner as to provide the most effective library service possible.

State library extension service. The library extension agency of the state, the Public Library Service Division of the Department of Archives and History, assists in the development and promotion of the local library program. This agency furnishes counsel and advice to all communities in the state which propose to establish libraries, and also provides guidance and assistance to existing libraries. The division advises with local authorities as to the proper qualifications of librarians for local public libraries; assists local libraries in selecting and cataloging books, and in other details of library management; processes books for local libraries not having trained librarians; purchases books, with local funds, for local libraries; assists in the establishment of branches of local libraries; and furnishes
advice and assistance in regard to the establishment of joint units of library service.

In addition to its other duties, the Public Library Service Division administers state grants to local public libraries. Ordinarily such grants are in the form of books purchased and provided by the Public Library Service Division. However, the division also lends bookmobiles to new county or regional libraries for a period of 18 months after their establishment, but with the understanding that the county or region must provide its own bookmobile after the expiration of the initial 18-month period. A partial insight into the practical administration of its extension functions may be gained from a reading of the following quotations, drawn from publications of the Public Library Service Division.

After the program has received financial support from the local governing bodies it is necessary for the Division staff to meet with the legally appointed library board and advise them in setting up the program. This includes an explanation of the duties and powers of the board, the preparation of a tentative budget, the selection of headquarters, the State aid plan, help in finding a qualified librarian and details of the program's operation, especially in the beginning year....

Book loans are made to existing libraries in varying amounts, dependent upon the needs of the library and the amount of local support. These books vary in amount from year to year and are on an indefinite loan basis. When
they have served their use in the community, they
can be returned and others sent.41

41. Quoted in Alabama Legislative Reference Service,

Support of public library service. In 1939 there were
three countywide library systems in the State of Alabama.
In addition, there was one regional system (which had been
organized by the Tennessee Valley Authority) and there
were 15 municipal libraries. At that time 52 counties in
the state were without free public library service. By
1956 there were only ten counties within which there were
no free public libraries.

In large measure, the growth of library service in
the state may be explained by an increased interest which
has resulted in larger state and local appropriations.
Local funds appropriated for library service increased
from approximately $130,000 in 1939 to more than $1,000,000
in 1956. The state appropriation to the Public Library
Service Division, for the quadrennium 1939-1943, was
$10,000 annually, conditioned upon whether such a balance
existed in the state free textbook fund. The appropriation
for the year 1955-56 was $108,000.42

42. The appropriation was actually $115,000; but a
proration, caused by the failure of state revenues to
meet expectations, reduced the appropriation to the
figure shown above.
1943-1945, the Legislature appropriated $22,700 annually to the division for the purchase of books with which to make grants to local public libraries. During the fiscal year 1955-56, the appropriation for book grants amounted to $67,000.43

43. The material forming the basis for this discussion of library service was drawn from Public Library Service Division, Annual Report, Fiscal Year Ended September 30, 1953; Director's Report, October 1, 1955-September 30, 1956; a mimeographed publication of the Public Library Service Division, explaining the duties of that division, apparently written in 1951; and Alabama Legislative Reference Service, A Study of State Library Systems (Montgomery, 1954), pp. 5-7. See, also, Article 3, Chapter 7, Title 55, Code of Alabama (1940), relative to the Public Library Service Division.

CONCLUSIONS

Analysis of the sources of education funds discloses a decided trend toward the assumption by the state of an increasingly larger share of financial responsibility for the operation of the public schools. For example, total revenue from all sources for the support of public elementary and secondary schools amounted to $38,520,405 in the year 1945-46. Of this sum, the state contributed $25,431,056, or 66 per cent of the total; local taxes produced $11,625,523, or 30.2 per cent; and the federal government provided $1,463,826, or 3.8 per cent of total revenue for elementary and secondary schools. By 1956-57,
however, the state's share of public school support had increased to 73.7 per cent of total elementary and secondary school revenues; local support had decreased to approximately 22.3 per cent; and the portion contributed by the federal government had increased, slightly, to 4.0 per cent of total revenue for elementary and secondary schools.\textsuperscript{44} By way of contrast, it may be noted that


over the country as a whole (during the year 1956) approximately 58 per cent of school funds were derived from local sources.\textsuperscript{45}

\textsuperscript{45}. \textit{The Municipal Year Book}, 1957, p. 445.

The property tax is the chief source of local school revenues in Alabama. Recognizing that the poorer counties could not provide adequate educational programs, the Legislature adopted a state-aid plan to provide a minimum school program, and thereby to equalize educational opportunities throughout the state as a whole. The measure of local financial ability to support the minimum school program consists of an average of an economic index and an assessed property valuation index. As explained in greater detail in Chapter X, there are serious deficiencies
in local property tax assessments in Alabama; and by basing state aid largely on locally assessed property valuations, the minimum program formula causes the deficiencies in property tax administration to affect the system by which state funds are distributed among the local school systems. As a result, the formula not only fails to achieve equalization; it also tends to depress local fiscal support of the public schools.\textsuperscript{46}

\begin{footnotesize}
\begin{enumerate}
\item Hugh W. Sparrow, political writer for The Birmingham News has assembled information showing that during the year 1951-52 only Jefferson County contributed as much as one-half toward the support of its public schools. The percentage of local support ranged from a high of 52.74 per cent in Jefferson County to a low of 5.82 per cent in Marion County. The Birmingham News, July 19, 1953, p. A-14.
\end{enumerate}
\end{footnotesize}

In 1957 an interim committee of the Alabama Legislature concluded that, "By any known yardstick, Alabama education measures short."\textsuperscript{47} Most of Alabama's education problem stems from a lack of sufficient financial support. The present overbalance of state support indicates that the necessary additional funds should probably be contributed by the local school units. Local tax rates would doubtless be adequate if property were assessed in
accordance with the statutory ratio. Improvement in assessments would thus provide a valuable means of procuring additional revenue for educational needs. The assessment equalization program recently undertaken by the State Department of Revenue may eventually prove highly beneficial in this regard.

It would also be possible to increase local school support by eliminating assessed valuation as a factor in determining the financial ability of local units to provide the minimum program. This would remove one of the basic causes of competitive undervaluation in Alabama, and, thereby, contribute to a general upgrading of assessment levels. A 1951-53 legislative interim committee on the public school system suggested that the index of local financial ability should be composed of the following three factors: (1) percentage of total state sales tax paid, (2) percentage of total state personal income tax paid, and (3) percentage of total state assessed valuation of public utilities. The adoption of such a formula as suggested by the committee would correct one of the most obvious defects of the minimum program formula, and would, at the same time, provide an equitable basis
for the distribution of state aid to public schools. This, and other similar proposals, have failed of adoption largely because of small-county interest in maintaining the status quo. Because of the small counties' disproportionate representation in the Legislature, the prospects of further attempts to alter the minimum program formula do not appear bright. Perhaps a more immediate solution to Alabama's school finance problem lies in the adoption of a constitutional amendment authorizing the local determination of local school taxes at such a level as may seem locally desirable.

Although much progress has been made in the development of a program of library service for the state, financial support of this function also remains relatively low. A further inadequacy lies in the lack of a uniform program of library service throughout the state. Approximately one-fourth of the state's population resides in counties in which there is still no public library service; many other persons live in areas with inadequate service. Much of the unevenness in the library program may be attributed to economic inequalities among the local governments. But much of it also appears to stem from a lack of awareness as to the role of the library in modern society. To be sure, increased interest in the library function during the past 20 years has contributed to the
development of this service. Nevertheless, much remains to be done to secure adequate statewide service at a uniform level. The fiscal assistance for rural development now available under the Federal Library Services Act should, however, assist materially in the attainment of this goal.
CHAPTER VIII
PUBLIC HEALTH AND WELFARE

Public Health

State administrative organization. Public health organization is unique in Alabama in that responsibility for the administration of public health functions is vested in the organized medical profession of the state. The State Medical Association of Alabama is constituted by law as the State Board of Health, and as such has general control of all public health work in the state.¹

1. Section 1, Title 22, Code of Alabama (1940).

Obviously, the entire medical profession of the state cannot administer the health laws efficiently. This fact was understood at the time the health organization was established, and it was provided that the prerogatives and duties of the board should be actively administered through an executive committee, known as the State Committee of Public Health. As now constituted, the State Committee of Public Health is composed of the Governor and the Board of Censors of the State Medical Association. Although the law designates the Governor as both member and ex officio chairman of the State Committee of Public
Health, he traditionally takes little part in its affairs.²

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2. State of Alabama Department of Health, Public Health . . . Is Many Things, p. 22; Sections 2 and 3, Title 22, Code of Alabama (1940); Robert T. Daland, Government and Health: The Alabama Experience (University, Alabama, 1955), p. 135. The Board of Censors consists of 10 senior members of the medical association, elected by the voting members of the association. It serves as (1) the governing authority of the medical association, (2) the supervisory board of the State Department of Health, and (3) the State Board of Medical Examiners. See Daland, op. cit., pp. 117-125, for a discussion of the organization of the Medical Association of the State of Alabama.

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The State Board of Health appoints the State Health Officer, who serves as executive officer of the board and as director of the State Department of Health, and fixes his salary and term of office.³ Among his other duties,³ The State Health Officer thus serves at the pleasure of the State Board of Health. His salary may not exceed $12,000 a year.

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3. The State Health Officer exercises general supervision over county boards of health and county health officers, and reports to the county boards of health any delinquencies of official duty on the part of county health officers, insofar as these may come to his attention.⁴

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4. Section 9, Title 22, Code of Alabama (1940).

Control of public health work in Alabama is vested exclusively in the state and county boards of health, and the
State Board of Health exercises general powers of direction over the enforcement of all laws relating to public health. No person or organization may engage in any public health work in Alabama, except under the supervision and control of the State Board of Health.\(^5\)

\[^{5}\text{Sections 6 and 7, Title 22, Code of Alabama (1940).}\]

**County administrative organization.** In Alabama the county is the unit for local health administration. The public health laws of the state specifically provide that no local board or body other than the county board of health may be established or exist for this function in any county or municipality. Municipalities are expressly forbidden to have a municipal health officer or any officer in the nature of a health officer.\(^6\) The jurisdiction of the county board of health thus extends throughout the county, including the municipalities situated within the county. As noted previously, the county board of health

\[^{6}\text{Section 6, Title 22, Code of Alabama (1940).}\]
functions under the general supervision and control of
the State Board of Health.\(^7\)

\begin{enumerate}
\item Section 4, Title 22, Code of Alabama (1940).
\end{enumerate}

The county board of health consists of the board of
censors of the county medical association and the chairman
of the county governing body, as member ex officio.\(^8\)

\begin{enumerate}
\item Ibid. The board of censors is composed of five
members of the county medical association. The members of
this board are elected by the members of the county asso­
ciation.
\end{enumerate}

The general health laws authorize each county governing
body to levy a special tax (actually, a part of the general
county property tax of five mills) in an amount sufficient
to maintain a full-time health officer and health depart­
ment and to administer public health work within the
county.\(^9\) The board of health of every county making an

\begin{enumerate}
\item Section 5, Title 22, Code of Alabama (1940).
\end{enumerate}

appropriation for full-time public health service appoints
a health officer for the county, subject, however, to the
approval of the State Committee of Public Health. The
county board of health fixes the term of office of the
county health officer, at not less than three years, and
fixes his salary, subject to the approval of both the
county governing body and the State Committee of Public Health. The county health officer, operating under the direction of the State Health Officer and the county board of health, has exclusive authority over the direction of all sanitation and public health work within the county.  

10. Sections 8(5), 12, and 15, Title 22, Code of Alabama (1940).

Although each of the state's 67 counties now maintains a permanent, full-time health department, this does not mean that each county consistently has had the services of a full-time health officer. In the past each county has had such an officer; but in recent years the number of full-time county health officers has declined, principally because of a shortage of medically trained persons willing to assume the duties at the salaries available.  

11. In 1956, for example, only 33 full-time county health officers were employed in the entire state. The counties not having full-time health officers either have acting or part-time health officers, or share the services of a health officer with a neighboring county. Of the 33 full-time county health officers employed in 1956, 19 served single-county units, five served two-county districts, eight served three-county districts, and one served a four-county district. Nine counties were served by practicing physicians functioning as acting or part-time health officers. Thus, only one county health department (Barbour) had no local health officer supervision. Alabama State Department of Public Health, Annual Report, 1956, p. 43. Too, the state health laws provide for the appointment of a licensed physician as quarantine officer in any county not having a county health officer. The law requires the quarantine officer
to perform, under the supervision and control of the State Health Officer and the county board of health, all duties in connection with the isolation, quarantine, and control of cases of infectious and contagious diseases that are required of a full-time county health officer. Section 18, Title 22, Code of Alabama (1940).

The types of local health departments vary among the counties; the form of organization found in each county depends largely upon the funds available for its support. The basic county health unit consists of a department of three persons—the county health officer, a nurse, and a clerk-typist. The basic units are enlarged in counties in which needs are greater and funds allow expansion. A sanitation officer is normally the fourth member added to the staff of a county health department. When necessary, and as funds permit, additional people may be employed. For example, the services of more nurses or sanitation officers, or of a milk inspector, a public health veterinarian, a dental hygienist, or a psychiatric social worker may be added.\(^\text{12}\)

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12. State of Alabama Department of Health, The Health of Your State, p. 7. In 1914 Walker County established the first county health department in the state. With the establishment of the 67th county department in Bibb County (1938), Alabama became the third state in the nation to establish a statewide system of local health organizations. Alabama established the first such program in the South.

Personnel practices and problems. As noted above,
the county health officer is selected by the county board of health, subject to the approval of the State Committee of Public Health. The county health officer chooses his own assistants, but his appointments must be approved by the county board of health. In 1939, the Federal Social Security Act was amended to require the establishment and maintenance of a merit system for the state agencies administering the programs receiving grants under that act. Because federal health aid was expended largely by counties in Alabama, it became necessary to establish a merit system for the county health departments to qualify for federal aid. The State Board of Health established a Merit System for County Health Work to meet the federal requirements. All positions in the county health department are covered under the Merit System for County Health Work, with the exception of the departments in Jefferson and Mobile counties, where health personnel is included under the provisions of separate county merit systems. ¹³ The Merit System for County Health Work operates under the control of the State Board of Health. However, the State Personnel Board, which heads the service-wide state merit system, exercises immediate powers of supervision over the county health merit system,

through that board's designation as the Merit System Council for County Health Work. Nevertheless, authority over the substantive questions involved in administering the Merit System for County Health Work remains in the hands of the State Board of Health. The State Personnel Board, as the Merit System Council for County Health Work, serves chiefly in an advisory capacity.¹⁴

¹⁴. Ibid., p. 97.

The Merit System for County Health Work provides for the central recruitment of county health personnel through the State Department of Health, and the state department conducts examinations and maintains rosters of persons eligible for appointment in the county service. But because the rosters are commonly short of eligible appointees, recruitment is largely on a local basis. "Regular procedure is for the health officer to locate someone willing to apply for the job, arrange for the person to take the merit examination, and appoint the person provided he passes the examination." Certification usually follows as a matter of formality. Complications may arise, however, when there are on the roster a number of persons eligible for the appointment. This situation sometimes results in the county health officer's having to appoint a person with whom he is not completely satisfied. It
has been suggested that such conflicts have produced considerable local opposition to the Merit System for County Health Work. 15

15. Ibid., pp. 101-102; The Health of Your State, p. 7.

One of the most serious problems of public health administration in Alabama involves the recruitment and retention of qualified personnel. Low salary scales are at the root of the problem. Professor Robert T. Daland, in his study of the Alabama public health system, presents comparative data showing that "the public health salaries paid by Alabama's state and county systems average less than those paid by any other state." 16 Professor Daland's study also indicates that the recruitment of county health officers, especially since 1942, has been almost entirely among retired physicians. 17 Low salary scales hamper


17. Ibid., p. 106. Apparently, however, some younger persons are now being attracted to the public health system. During 1956, the number of full-time county health officers past the age of 70 was reduced from 15 to 10. Annual Report, 1956, p. 43.

recruitment of qualified persons into the system, and are responsible for the loss of many Alabama-trained
public health workers to other states. Furthermore, the primary reason given for the failure of central recruitment for county health departments is that "the pay is too low to attract other than local residents."


Low salary scales are not, however, the exclusive cause of personnel problems in the Alabama public health system. Professor Daland lists a number of other causes, all of which point up the apparent failure of the State Board of Health to establish positive personnel policies designed not only to attract but also to retain qualified personnel in the public health service of the state:

Alternative methods of stimulating recruitment have been almost entirely neglected. The idea of a statewide career service has not been emphasized. Professionalization of public health workers, except in particular specialties, has not been promoted. The American Public Health Association has no organized chapter in Alabama.

Despite almost complete control by the health department over the county health merit system, county health officers have not been utilized effectively as recruiting officers for a statewide service, nor have they been effectively oriented as personnel administrators for their own employees.

The medical profession has assumed no responsibility for recruitment of doctors and has actively opposed the merit system on occasion. The professional control of the health function at the county level has probably discouraged any studied attempt to reorganize health service areas so
that the available supply of health officers would be more effectively used.

No deliberate program of developing non-medical administrators so as to utilize medical skills more efficiently has been attempted. In the State Health Department itself, reliance on nonmedical administrators has increased only as a matter of necessity.19

19. Ibid., pp. 110, 112.

The State Department of Health provides training for county health personnel where necessary and within the extent permitted by available funds. Formerly, the state department afforded extensive training in public health work to physicians and nurses, either at state facilities or at out-of-state schools of public health. But in the past few years, health officers have not been specially trained by the state, and few nurses have been afforded public health training at state expense. The decline in such training may be attributed to a decrease both in the number of applicants for such positions and in the amount of money available for the purpose. Considerable in-service training is provided, however, both to public health nurses and to other persons. Sanitation officers, for example, after their appointment to positions with county health departments, are required to take a special six-week course of training conducted in Montgomery by
the Bureau of Sanitation of the State Department of Health. 20


County health program. In Alabama the county health departments administer a well-defined program of service, which includes the following activities:

1. The prevention of soil-pollution or filth-borne diseases (typhoid fever, dysentery, and hookworm) by the installation of proper sanitary conveniences; the protection of food, milk, and water supplies; and the administration of typhoid vaccine

2. The prevention of acute childhood communicable diseases (diphtheria, scarlet fever, measles, mumps, and whooping cough) by the administration of toxoid and the isolation of contacts

3. The prevention and control of smallpox by vaccination, isolation, and quarantine

4. The control of diseases spread by insects and rodents (dengue fever, malaria, and typhus fever) by screening against mosquitoes, spraying with larvacides and insecticides, practicing water-level management and shoreline maintenance, draining or oiling mosquito breeding places, destroying rats, and ratproofing buildings
5. The prevention and cure of tuberculosis by detection of early cases, isolation, and instruction of contacts

6. The prevention and cure of venereal diseases by educational programs and adequate treatment

7. A program of maternal and child care, including supervision and instruction of expectant mothers, infant and pre-school hygiene, school medical service, and supervision of midwives

8. The conduct of educational programs designed to acquaint the people of the state with the means of disease transmission and the methods of disease control, by the use of motion pictures, lectures, news articles, personal conferences, pamphlets, and radio programs

9. The registration of births and deaths

10. The curbing of mental illness and emotional disturbances by guidance, counseling, and other procedures

11. Encouraging the construction of hospitals and public health centers, particularly in accordance with the provisions of the Hill-Burton Act (which provides federal funds up to one-third of the total cost of non-profit hospitals and health centers, exclusive of the cost of the sites)\textsuperscript{21}

\textsuperscript{21} \textit{Ibid.}, pp. 8-9; Public Health \ldots Is Many
Things, pp. 21-22. The latter booklet contains several articles describing the various aspects of the state's public health program.

The health laws of Alabama authorize any county, or group of counties, to establish a sanatorium for the tuberculous. An act of 1945, however, divides the state into seven districts for the construction of district tuberculosis sanatoria; and hospitalization for the tuberculous is now administered on the district basis. District tuberculosis sanatoria are largely supported by a state subsidy. Under the statute providing the subsidy, the cost per patient-day is calculated, and the sanatorium is reimbursed by the state at a prescribed rate. The state requires as a condition to the subsidy that the sanatorium reserve 15 per cent of its total bed capacity for the treatment of such out-of-county Alabama citizens as the State Committee of Public Health may designate. The counties of residence of all indigent patients are required to pay the cost of treatment over and above the state subsidy. Non-indigent patients may be charged a reasonable sum for care and treatment in such sanatoria; the exact charge is fixed by the hospital authorities. Admission of non-resident indigent patients to a sanatorium is controlled through the requirement that the county health officer of the resident county must approve the
admission. Because of a shortage of beds in tuberculosis hospitals, non-resident patients are admitted under a quota system. "Thus each county knows just how many beds are available to it, and can determine just which cases most need the beds available." Funds for the support of beds allotted to particular counties are derived from county appropriations and from private funds donated for the care and treatment of the tuberculous.22


The lack of an adequate public medical care program for needy persons is one of Alabama's most pressing health problems. A step was taken toward the development of such a program, in 1957, with the enactment of legislation establishing a public hospital service program for indigents.23 This legislation provides for an equal apportionment among the counties of 25 per cent of the amounts appropriated by the state for indigent hospital service, and an apportionment of the remaining 75 per cent

among the counties on a population basis. To qualify for the latter funds, however, the county governing body is required to match, equally, all or a part of the amount allotted to the county.\textsuperscript{24} A county wishing to participate in the hospital service program must notify the State Board of Health, not later than the first day of January of each year, that it desires to participate during the current fiscal year. A county may participate either to a limited extent by accepting only the non-matching funds available to that county, or participate fully by matching the additional funds allotted to it. During the first year of the program's existence, not every county indicated a desire to participate.\textsuperscript{25} However, unclaimed funds in both categories do not revert to the state treasury but are subject to redistribution after January 1 of each fiscal year.

Questions of eligibility for hospital service, as an
indigent, are determined by an "admissions committee" in each county. This committee consists of three members appointed by majority vote of an appointing board composed of the judge of probate, two members of the county governing body, and one member of the governing body of each of the two largest incorporated municipalities within the county. If there is only one incorporated municipality within a county, however, two members of the appointing board are selected from the governing body of that municipality. Members of a county admissions committee must be residents and qualified electors of the county, but may not hold any public office of trust or profit, or be actively engaged in the practice of medicine. The admissions committee is charged with responsibility for completing all local arrangements concerning hospital service for indigents, and giving its approval to charges before they are certified to the State Department of Health for payment. Members of the committee serve without compensation.26

26. The 1957 Legislature appropriated only $100,000, for each of the fiscal years 1958 and 1959, to the State Department of Health for the purpose of making hospital service grants to the counties. With such a limited appropriation, each county's current allotment of funds is necessarily small. Non-matching allotments, for example, amounted to $354.48 for each county. Matching allotments ranged from $270.75 for Coosa County, with 0.38 per cent of the state's population, to $13,003.12 for Jefferson County, with 18.25 per cent of the state's
population. At the time of writing operational plans for the administration of the program had not been completed. Nevertheless, it was believed that the remaining details could be clarified with little difficulty and that the program could soon be initiated.

Vital statistics. The registration of vital statistics is accomplished through a statewide system of local registrars of vital statistics. Each voting precinct in the state constitutes a primary registration district. However, any of such districts, within a county, may be combined or divided, or the entire county may be constituted a primary registration district. The State Board of Health, upon the recommendation of the county health officer, appoints a local registrar of vital statistics for each registration district. The county health officer may be appointed registrar, but may not receive any additional compensation for the performance of this duty. Various individuals having a knowledge of vital events (such as physicians, midwives and morticians) are required by law to report such events to the local registrars of vital statistics. The local registrars, in turn, report the events to the state registrar of vital statistics, an officer who heads the Bureau of Vital Statistics within the State Department of Health. Where necessary, and upon recommendation of the local registrar, the State Board of Health may appoint deputy registrars of vital statistics.
Marriage records are furnished the state registrar of vital statistics by the judges of probate; registers of the circuit courts (or other courts having equity jurisdiction) furnish records of divorces. All registration of vital statistics is performed under the supervision of the State Board of Health.27

27. Sections 19-43, as amended, and Sections 92, 93, Title 22, Code of Alabama (1940); Daland, op. cit., pp. 37, 46-47.

State supervision of county health organizations.
The state health laws vest in the State Board of Health extensive powers of supervision and control over the administration of county public health work. The jurisdiction of the State Board of Health includes authority to displace any local health official who fails properly to perform his duties. In the language of the law, the State Board of Health has authority to "exercise supervision and control over county boards of health and over county health officers and county quarantine officers in the enforcement of the public health laws of the state in their respective counties and whenever any such county board of health, county health officer, or county quarantine officer shall fail or refuse to discharge its or his duties said duties may be discharged by the state board of health until proper arrangements are made to insure their
discharge by said county board of health or said county
health officer, or said county quarantine officer, as the
case may be." Moreover, the State Health Officer may re­
move from office any county health officer who fails or
refuses to observe or conform to the rules, regulations,
or policies of the State Board of Health.28

28. Sections 7(7) and 8(5), Title 22, Code of Ala­
bama (1940).

There exists within the State Department of Health a
Bureau of County Health Work, charged with the general
supervision of all county public health operations.
Nevertheless, all bureaus within the state department
function in a consultative capacity to the county depart­
ments, and exercise technical and professional super­
vision over matters concerning their respective programs.
As noted throughout this discussion, the legal authority
of the state department to exercise administrative con­
trol and supervision of county health work is complete.
In actual practice, however, such supervision is limited
largely to the making of suggestions. "The extent to which
the state department attempts to supervise and control
local health work through the issuing of binding directives
is very limited." Its policy is apparently one of de­
ference to local medical opinion. It should be pointed

29. Daland, op. cit., pp. 17, 18; Chapter II, passim. See also, The Health of Your State, pp. 3-6.

out, however, that the budgeting, accounting, and disburs­
ing of county health funds have become centralized in the
state department, primarily as a result of the complex
method of financing the health function.

Public health finance. County public health work is
financed by federal and state as well as local sources of
revenue. The general health laws of the state authorize
the governing body of each county to levy annually a
special county tax in an amount sufficient to maintain a
full-time county health officer and health department and
to carry on public health work within the county. 30

30. Section 5, Title 22, Code of Alabama (1940).

Actually, this tax constitutes a portion of the five-mill
levy authorized to be imposed on property for general
county purposes. Although local public health adminis­
tration is conducted by the county board of health on a
countywide basis, incorporated municipalities having a
population of 5,000 or more are required by law to con­
tribute to the support of public health and sanitation
work within the corporate limits of the municipality. All municipalities, regardless of size, are authorized to appropriate funds for public health work. The counties may also use a portion of the shared state revenues derived from Alcoholic Beverage Control Board operations and the sales tax for the support of the public health function.

The State Department of Health allocates financial aid among the counties for the support of local public health work from a sum composed of both federal and state funds. This aid is in the nature of an equalization grant. Until recently, the state and federal aid was apportioned among the counties on the basis of assessed property valuations. Apparently realizing that deficiencies in local property tax assessments unfavorably influenced the allocation of fiscal aid, the State Department of Health abandoned the formula based on assessed valuations and now allots funds to county health departments on a per capita basis, with counties having small populations receiving relatively more per capita than the more populous counties. The present formula is based on population classifications, and amounts per capita,
not to exceed specified percentages of the budgets of the county health departments, as follows:32


<table>
<thead>
<tr>
<th>Population</th>
<th>Amount Per Capita</th>
<th>Not to Exceed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 15,000</td>
<td>50¢</td>
<td>60% of budget</td>
</tr>
<tr>
<td>15,000 to 20,000</td>
<td>45¢</td>
<td>60% of budget</td>
</tr>
<tr>
<td>20,000 to 25,000</td>
<td>40¢</td>
<td>50% of budget</td>
</tr>
<tr>
<td>25,000 to 35,000</td>
<td>35¢</td>
<td>50% of budget</td>
</tr>
<tr>
<td>35,000 to 50,000</td>
<td>30¢</td>
<td>40% of budget</td>
</tr>
<tr>
<td>50,000 to 75,000</td>
<td>25¢</td>
<td>40% of budget</td>
</tr>
<tr>
<td>Over 75,000</td>
<td>20¢</td>
<td>30% of budget</td>
</tr>
</tbody>
</table>

Multi-county health districts. The Committee on Local Health Units of the American Public Health Association suggested, in a report issued in the year 1945, "that a population unit of less than 50,000 can only in rare instances afford or justify as administratively economical an adequate full time local health service,..."33

33. Local Health Units for the Nation (New York, 1945), p. 10.

In the light of this judgment, the committee recommended the establishment of 36 units of local health jurisdiction for the State of Alabama. The average population of the 36 suggested units, according to the 1940 census, was
approximately 78,700, ranging from 36,400 to 459,900.
Only seven had populations of less than 50,000, and only
three had populations of over 100,000. 34

34. Ibid., p. 26.

More recently, the United States Public Health Service has recommended 35 local health units for the
state. 35 The State Department of Health has also ex-

Cited in Daland, op. cit., p. 15.

pressed official approval of the idea of establishing such
a number of health districts. In its annual reports of
1944 and 1945, the department stated that perhaps 43 to
46 local health units would be the minimum possible
number. 36

36. Ibid., citing Alabama State Department of

The public health laws of Alabama now permit the
establishment of bi-county or multi-county district
health departments. Whenever two or more counties, act-
ing through their governing bodies, agree to appropriate
proportionately from their respective county funds a sum
sufficient to provide a district health department, the
county boards of health of the counties which are parties to the agreement may appoint a full-time county health officer for the district. The appointment of the district health officer is subject to the approval of the State Committee of Public Health, and his jurisdiction within the district is the same as that of a county health officer within a county. The Alabama counties have never taken the necessary steps to establish such a district department, and apparently prefer individual county health organizations. The policy of the State Department of Health now leans, also, toward the maintenance of a full-time health department for each county. Efficient utilization of available medical personnel is provided for, however, by the extensive use of joint health officers.

PUBLIC WELFARE

Developments before 1935. In Alabama, as in other states, public welfare services originally were rendered in the form of locally administered relief for the poor. Traditionally, the county has been responsible for the
administration of public welfare in this form in Alabama. Its responsibility for the performance of the function dates from the enactment of the 1803 "Poor Law" of the Alabama-Mississippi Territory, an act which placed upon the counties responsibility for the support of paupers.39


In its earliest stages, the public welfare function was confined largely to poor relief and aid to orphan children, and was administered chiefly in the form of outdoor relief. By 1915, however, the system of outdoor relief had been supplanted, in large part, by institutional care. Many of the counties operated almshouses for paupers, and a few counties operated orphans' homes. Institutions established for the care of children were operated primarily under private auspices.40

40. Ballard, loc. cit., p. 393.

The first statewide public welfare program was not established until 1919, at which time there was created a State Child Welfare Department. By 1923 it was believed that the child welfare program could be best administered
at the local level, and in that year legislation was enacted to provide for a locally-administered, state-supervised program of child welfare. Under this law there were established county child welfare boards, composed of the judge of the juvenile court, the chairman of the county board of education, the county superintendent of education, and three other members appointed by the judge of the juvenile court. The county board was authorized to appoint a person trained in social work as county superintendent of child welfare. This development proved to be highly significant, for the child welfare organization became the foundation upon which the present expanded public welfare program in Alabama was built.41

41. Tennessee Valley Authority, op. cit., p. 96, citing Mary Ruth Colby, The County as an Administrative Unit for Social Work, United States Department of Labor, Bureau Publication No. 224, 1933, pp. 16-17, and Code of Alabama (1926), sections 143-152.

The effects of the depression of the 1930's had not been long felt when it became apparent that the financial resources of the states and counties were insufficient to meet the need for relief, and that the federal government had to assume a portion of the burden. In Alabama, the county child welfare organization provided the necessary machinery for the administration of federal-state
emergency relief. Early in 1933 the State Child Welfare Department began to function as the Social Service Division of the Alabama Relief Administration created in December, 1932. In most counties the child welfare boards became relief boards and the child welfare superintendents became relief directors, but each of these organs retained its authority and continued its service in child welfare. The relief and child welfare programs were administered jointly in most counties until 1935.42


These years provided the state valuable experience in the administration of public assistance, and this experience enabled the state to move swiftly in establishing an approved public assistance program upon the establishment of the federal social security program in 1935.

Developments since 1935. The Legislature of Alabama was in session in August, 1935, when the Federal Social Security Act was enacted. Under this act, federal grants became available for a number of public assistance purposes, including old-age assistance, aid to the blind, and aid to dependent children. Thirteen days after the passage of the federal law, the Legislature enacted a statute establishing the Alabama Department of Public Welfare.
This agency absorbed all functions of the Child Welfare Department except responsibility for the administration of the Child Labor Law, and, in addition was charged with responsibility for the administration of all relief, assistance, and child welfare programs, and for rendering cooperative services to other public and private agencies. The statute also created county boards and departments of public welfare, which operated under the supervision of the state department.

Several additional developments of major importance were also initiated in the year 1935. The Legislature enacted the Alabama Old Age Pension Act and the Alabama Aid to Dependent Children Act to establish public assistance programs in these areas in accordance with requirements of federal law. These programs, along with the child welfare program, received the approval of the Federal Social Security Board early in 1936. Federal funds were released for these three programs, and their administration under the terms of the federal law was begun. The Alabama Aid to the Needy Blind Act was

43. Tennessee Valley Authority, op. cit., pp. 96-97; Ballard, loc. cit., p. 395. Administration of the Child Labor Law was transferred to the newly created State Department of Labor. Ibid.

passed in 1937. The program of aid to the needy blind established by this act was approved by the Social Security Board, and federal funds were released for this purpose, in the same year.\footnote{45}

\footnote{45. Ibid.}

Elimination of almshouses. Also in 1935, the newly established Department of Public Welfare initiated an effort to eliminate county almshouses. The first step in the program was a survey of all such institutions then in existence. This survey revealed that almshouses existed in 63 counties and housed, in November, 1935, almost 1,500 persons. Steps were then taken by the state department, acting through the county departments of public welfare, to find suitable homes for these persons. As the program developed, it was found that the transfer of the almshouse residents to carefully selected and supervised family homes resulted in considerably better care for the needy persons at a sharply reduced cost to the counties. By the end of the year 1951, only two county almshouses remained in the state. The two almshouses continue to function, in the counties of Jefferson and Mobile, but are now operated primarily as nursing homes for chronically ill adults.\footnote{46}

\footnote{46. Ibid., pp. 6, 8. Also, Tennessee Valley Authority,
Developments since 1951. The acts of 1935 and 1937 created in Alabama an integrated public welfare program, operating as a locally-administered, state-supervised function in cooperation with and in conformity to the legal requirements of the Federal Social Security Act and the rules, regulations, and policy determinations of the federal supervisory agency. Before 1951 the public welfare program was financed with funds derived from federal, state, and local sources. Local funds were derived from appropriations from local general funds and from earmarked revenues received from certain state-administered, locally-shared taxes. The local funds were used to match the available state funds, and the total was used for federal matching purposes.

It became apparent, however, that the manner in which the shared funds were distributed among the counties failed to provide an equitable basis for the payment of public assistance. State aid was partially distributed among the counties on the basis of population, and was partially distributed equally among the counties. Under this method of apportionment, some counties which had the
greatest need for welfare funds found themselves with relatively less revenue with which to match state and federal funds. Consequently, there resulted, over the state as a whole, an unequal program of assistance; and the recipients of public assistance fared better in some counties than in others.\footnote{47} 


In 1951 the welfare laws of the state were rewritten in an effort to provide a more uniform and equitable assistance program.\footnote{48} Under this legislation, fiscal responsibility for the administration of the welfare function was centralized in the state department. The act diverted the shared funds from the counties to the state department, and authorized the state department to use all state welfare appropriations to secure the matching federal funds. The act of 1951 enabled the state department to view comprehensively the welfare needs of the entire state and make assistance payments to individuals on a uniform basis. The change did result, however,
in the loss to the program of some local general fund appropriations for public welfare purposes.\textsuperscript{49}

\textsuperscript{49.} Alabama Legislative Reference Service, The Administration of Old Age Assistance in Alabama, p. 2.

A 1950 amendment of the Federal Social Security Act provided for a new category of assistance to be supported by federal grants—aid to the permanently and totally disabled. Alabama's plan was approved in 1950, and the reorganization act of 1951 made specific provision for aid to the permanently and totally disabled.\textsuperscript{50} In 1955 the name of the State Department of Public Welfare was changed to the State Department of Pensions and Security. The names of the state board, and of county boards and departments of public welfare, were changed correspondingly.\textsuperscript{51}


Administrative organization.\textsuperscript{52} Alabama's present public welfare program is administered through the county
departments of pensions and security, under the general supervision of the State Department of Pensions and Security. It is the duty of the State Department of Pensions and Security to supervise the activities of the county departments; to establish policies which assure that state and federal welfare laws and regulations are followed and uniformly applied by the county departments; and also to render certain direct services to individuals, services which include, for example, writing and mailing assistance checks, and hearing appeals from cases decided in the counties.

The State Department of Pensions and Security operates under the general supervision and control of the State Board of Pensions and Security, which consists of the Governor, as chairman, and six other members (at least two of whom must be women) appointed by the Governor and confirmed by the Senate. Board members must be appointed on the basis of recognized interest in welfare work, without regard to political affiliation. Members of the state board serve for a term of six years. Immediate charge of the state department is vested in the Commissioner of Pensions and Security, who functions as the executive officer of the state board. He is appointed by the board, and serves at its pleasure.

Local machinery for the administration of the welfare
function includes county boards of pensions and security as well as county departments of pensions and security. The county boards are composed of seven members selected from among the residents of the county by the county governing body on the basis of their recognized interest in public welfare. However, in counties which contain cities having a population of 60,000 or more inhabitants, the governing body of the city has equal authority with the county governing body in appointing the members of the county board of pensions and security. Members of the county boards of pensions and security serve for terms of six years. The county board selects from among its own membership a chairman and a secretary to serve at its pleasure. The board holds its meetings under rules established by it in conformity with the regulations of the state board. Members of the county board receive no compensation for their services, but are reimbursed for their expenses incurred in attendance at the meetings of the board or during the course of departmental business. The functions of the county board include reviewing applications for public assistance, and appointing, under the provisions of the state merit system, the director of the county department of pensions and security.

The county director serves as the executive officer of the county department. He is appointed by the county
board on a nonpartisan basis, and serves at its pleasure. The reorganization act of 1951 placed all county departmental employees, including the director, under the state merit system. Consequently, the county board, whenever it desires to appoint a county director, must request the State Personnel Department to establish a register of eligible persons. The law requires the appointment to be made, if possible, from among residents of the county in which the vacancy occurred. If no appointment can be made from among the residents of the county, the board appoints a director from the statewide register.

County departments of pensions and security consist of the director and such other employees as may be authorized by the county board and the state department. The director appoints the necessary staff, subject to the approval of the county board and the provisions of the state merit system. As in the case of the director, departmental employees are appointed, insofar as possible, from among the residents of the county in which a vacancy exists. Appointments are made from the statewide register only if no appointment can be made from a local register.

The welfare program. The county departments of pensions and security administer such welfare services as public assistance to needy individuals and families; the
care of dependent, neglected, delinquent, and handicapped children; other child welfare activities, including probation services for juvenile courts, adoption services, child-placing, and other services to children either in their own homes or in foster homes; and a variety of cooperative services.53 Such cooperative services include

53. Ballard, _loc. cit._, pp. 396-7; State Department of Pensions and Security, _Alabama Social Welfare_, December, 1955, p. 1. The December issue of this publication usually constitutes the annual report of the department. It did not, however, in 1957; and because of a delay in assembling information was not published until April, 1958.

the making of dependency investigations for local selective service boards; reporting to the circuit court on the financial condition of persons liable for the support of patients in mental institutions; and determining indigency for purposes of the cancer control program administered by the State Department of Health. In addition, the county departments, upon request, make investigations for welfare departments and other social agencies in other states, and furnish financial information concerning persons applying for aid from private charitable institutions or agencies. They cooperate with the State Department of Education and other organizations in providing services and assistance to handicapped children and adults. The Department of Pensions and Security also functions as the agency to
receive and distribute federal surplus food to eligible needy families in the state.54

54. Ibid., pp. 1, 5, 8.

The administration of public assistance is the most important aspect of the welfare program. The assistance program includes the "categorical" aids—old-age assistance, aid to the blind, aid to dependent children, and aid to the permanently and totally disabled; aid to children in foster care (state), which is administered by the state department in cases requiring permanent separation from the home; aid to children in foster care (county), which is administered through the county departments in cases where temporary foster care is required; and a limited form of general assistance known as "temporary aid." Table X shows the expenditures made for public assistance during the fiscal year 1956-1957.
### TABLE X

EXPENDITURES FOR PUBLIC ASSISTANCE
October 1, 1956-September 30, 1957

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
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</thead>
<tbody>
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<td>Old-Age Assistance</td>
<td>$52,397,283.56</td>
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<tr>
<td>Aid to Dependent Children</td>
<td>9,390,841.89</td>
</tr>
<tr>
<td>Aid to Permanently and Totally Disabled</td>
<td>5,022,210.14</td>
</tr>
<tr>
<td>Aid to the Blind</td>
<td>727,445.81</td>
</tr>
<tr>
<td>Aid to Children in Foster Care</td>
<td>443,600.85</td>
</tr>
<tr>
<td>Temporary Aid</td>
<td>14,952.84</td>
</tr>
<tr>
<td>Other</td>
<td>60,366.03</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$68,056,761.12</strong></td>
</tr>
</tbody>
</table>


The average number of cases receiving each type of public assistance and the average payment per case, during the same year, are shown in Table XI.

### TABLE XI

NUMBER OF CASES RECEIVING PUBLIC ASSISTANCE AND AVERAGE PAYMENT BY CATEGORY
October 1, 1956-September 30, 1957

<table>
<thead>
<tr>
<th>Category</th>
<th>Cases</th>
<th>Average Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Old-Age Assistance</td>
<td>104,215</td>
<td>$41.94</td>
</tr>
<tr>
<td>Aid to Dependent Children</td>
<td>20,595</td>
<td>38.12</td>
</tr>
<tr>
<td>Aid to Permanently and Totally Disabled</td>
<td>12,561</td>
<td>33.38</td>
</tr>
<tr>
<td>Aid to Blind</td>
<td>1,685</td>
<td>36.04</td>
</tr>
<tr>
<td>Aid to Children in Foster Care-County</td>
<td>987</td>
<td>30.37</td>
</tr>
<tr>
<td>Aid to Children in Foster Care-State</td>
<td>158</td>
<td>37.45</td>
</tr>
<tr>
<td>Temporary Aid</td>
<td>100</td>
<td>12.70</td>
</tr>
<tr>
<td><strong>Average for Year</strong></td>
<td>140,301</td>
<td><strong>$40.43</strong></td>
</tr>
</tbody>
</table>

As may be seen from the tables, old-age assistance constitutes the largest single phase of the assistance program; the expenditures for this category amounted to slightly more than 75 per cent of all expenditures made for public assistance during the fiscal year. Old-age assistance, aid to dependent children, and aid to the permanently and totally disabled comprise the bulk of the assistance program, both in terms of expenditures and in the number of cases served. The state has no real program of general assistance; apparently, because federal funds are not granted for this purpose. The state does engage in a limited form of general assistance known as "temporary aid," but the available funds are sufficient to provide emergency aid for only some 100 cases monthly. The low per capita income in Alabama, the relatively small number of people eligible for participation in the federal old-age and survivors insurance program, the increasing proportion of the aged in the population, the large proportion of children in the population, the relaxed standards of eligibility for old-age assistance since 1955, and the relatively small amounts of funds expended for public assistance purposes—all these are factors which influence the pattern of public assistance
benefits in Alabama. As a result of these factors, Alabama's public welfare program is characterized by higher caseloads and smaller assistance payments than those which prevail over the nation as a whole.  

55. Ballard, loc. cit., p. 396; Alabama Social Welfare, December, 1955, passim. See the annual report issue of the latter publication (usually December of each year), for annual statistical summaries as to finances, caseloads, and benefits.

Financing the welfare program. Before the enactment of the reorganization legislation of 1951, federal, state, and local funds were used to finance Alabama's public welfare program. Local funds were derived from payments made from the state general fund, the state sales tax, Alcoholic Beverage Control Board revenues, county and city general funds, and private funds donated for charitable purposes. With the exception of general fund appropriations and private funds, local welfare funds were derived from state-administered, locally-shared revenue sources. State welfare funds, before 1955, were derived from state general fund appropriations, Alcoholic Beverage Control Board revenues, the state sales tax, and the surplus remaining from the proceeds of a one-mill property tax for Confederate pensions after all pensions had been paid.  

56. Ballard, loc. cit., p. 398. State pensions to widows of Confederate veterans are paid through the State
Department of Pensions and Security. The rapid decline in the number of Confederate pensioners has resulted in an increasingly large surplus devoted to old-age assistance purposes. Ibid.

In order to provide additional welfare funds, the Legislature levied in 1955 four new state taxes, the proceeds of which were earmarked for old-age assistance, and a fifth tax whose proceeds were subject to appropriation for such purposes. These measures included an additional one-cent tax on malt or brewed beverages, an additional one-cent tax on cigarettes, an increase in the corporation franchise tax, an increase in the premium tax levied on foreign insurance companies, and an additional 10-per cent tax on spirituous and vinous liquors sold by the Alabama Alcoholic Beverage Control Board.57

Table XII shows the amount and source of public welfare receipts during the fiscal year 1956-57. As may be noted from the table, total receipts available for public welfare purposes amounted to $67,279,424.69. Of the
TABLE XII
PUBLIC WELFARE RECEIPTS
October 1, 1956-September 30, 1957

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Federal Funds</strong></td>
<td></td>
</tr>
<tr>
<td>Child Welfare Service</td>
<td>$253,412.09</td>
</tr>
<tr>
<td>Bureau of Public Assistance</td>
<td>47,557,315.61</td>
</tr>
<tr>
<td><strong>Total Federal Funds</strong></td>
<td>$47,810,727.70</td>
</tr>
<tr>
<td><strong>State Funds</strong></td>
<td></td>
</tr>
<tr>
<td>General</td>
<td>$5,030,000.00</td>
</tr>
<tr>
<td>Whiskey Tax</td>
<td>4,439,704.91</td>
</tr>
<tr>
<td>Cigarette Tax</td>
<td>2,408,302.05</td>
</tr>
<tr>
<td>Beer Tax</td>
<td>1,585,379.28</td>
</tr>
<tr>
<td>Sales Tax</td>
<td>1,322,000.00</td>
</tr>
<tr>
<td>Franchise Tax</td>
<td>1,319,595.62</td>
</tr>
<tr>
<td>ABC Profits</td>
<td>970,533.63</td>
</tr>
<tr>
<td>Children's Trust Fund</td>
<td>1,734.19</td>
</tr>
<tr>
<td><strong>Total State Funds</strong></td>
<td>$17,077,249.68</td>
</tr>
<tr>
<td><strong>Total State Department of Pensions and Security</strong></td>
<td>$64,887,977.38</td>
</tr>
<tr>
<td>Confederate Pension Fund</td>
<td>2,202,515.00</td>
</tr>
<tr>
<td>Local Funds</td>
<td>188,932.31</td>
</tr>
<tr>
<td><strong>Grand Total Funds</strong></td>
<td>$67,279,424.69</td>
</tr>
</tbody>
</table>

total, $47,810,727.70 represented federal funds granted to the state for welfare purposes. The remaining $19,468,696.99 represented the total amount of state and local funds appropriated for welfare purposes. Federal funds thus amounted to approximately 71 per cent of total receipts allocated for public welfare purposes during the fiscal year. As compared with national averages, the amount of federal participation in Alabama's welfare program is relatively high.

**SUMMARY AND CONCLUSIONS**

In Alabama the county is the exclusive unit for local health administration. Municipalities are forbidden by law to have a health department, or to engage in any health activities not under the control of the county board of health. Health organization is unique in Alabama, in that at both the state and county levels the medical profession controls the public health function. Control of public health is assured to the medical profession by an arrangement under which the state medical association forms the State Board of Health and the governing authority of the county association forms the county board of health. All public health work in the state is subject to the supervision of the state board.
The governing body of each county may levy a special tax (actually, a part of the general county property tax of five mills) in an amount sufficient to maintain a full-time health officer and health department, and to administer public health work within the county. The board of health of every county making such an appropriation appoints a health officer for the county, subject to the approval of the state authorities. The county board of health fixes the salary and term of the county health officer, with the approval of both the county governing body and the State Board of Health. Although each county now maintains a full-time health department, this does not mean that each county has a full-time health officer. Because of a shortage of medically trained persons willing to assume the duties at the salaries payable, most counties either rely on acting or part-time health officers, or share the services of a health officer with a neighboring county (or counties).

The types of local health departments vary among the counties; that found in each county depends largely upon the funds available for its support. The basic organization is composed of the county health officer, a nurse, and a clerk-typist. When necessary, and as funds permit, additional people may be employed. The county health departments administer a well-rounded program of
service, including the prevention and control of disease, maternal and child care, and the registration of vital statistics. County public health work is financed by federal and state aid, in addition to local appropriations.

The county is also Alabama's local unit for public welfare administration. The machinery for administering the welfare function at this level includes the board of pensions and security, and the director and the department of pensions and security. The county boards are usually appointed by the county governing body; but in the few counties having large cities, the governing body of such a city has equal authority with the county governing body in appointing the members of the board of pensions and security. Reorganization legislation of 1951 placed all county welfare employees, including the director, under the state merit system. Since then, the county directors have been appointed by the county boards in accordance with the provisions of the state merit system. The director appoints departmental employees, subject to the provisions of the state merit system as well as the approval of the county board. The most unfortunate feature concerning the staffing of county departments of pensions and security is that an attempt must be made to appoint a resident of the county in which a vacancy occurs. However, if the appointment may not be
made from among the residents of the county, the appoint-
ment may be made from a statewide register.

Subject to the general supervision of the State De-
partment of Pensions and Security, the county departments
administer such welfare services as public assistance,
child welfare activities, and a variety of cooperative
services, including dependency, indigency, and social
investigations for other agencies or institutions. Before
the reorganization legislation of 1951, the welfare pro-
gram was financed by local appropriations, which were
matched by state funds, and this total amount was matched
by the federal government. Local funds were derived
largely from shared state revenues; only a minor portion
came from county general fund appropriations. The 1951
legislation diverted the locally shared state revenues
from the counties to the state department, and centralized
fiscal responsibility for the welfare program at the state
level. Now all state funds dedicated to public welfare
purposes are administered by the state department, and
are used by that department as the basis for securing
matching federal funds. The change was predicated upon
the premise that equal treatment of recipients in all
counties could be more effectively achieved through cen-
tralization.

The 1951 change effected further centralization in an
already highly centralized function, and, as a result, appears to have caused a decline in local responsibility and participation in the welfare function. In public health administration, the budget, accounting, and disbursing system has been centralized in the state department. This development appears to have had a deleterious effect on state-local relationships in the area of public health, and, also, to have weakened the position of the county health officer in his negotiations with local governing bodies on appropriations.58 But in contrast to public welfare, public health administration, though theoretically subject to complete state control, is characterized by virtual autonomy in the determination of local policy.

58. See Coleman B. Ransone, Jr., Impact of Federal Grants-In-Aid on the Political Structure and Functioning of State and Local Government in Alabama, a report prepared as a part of the study of twenty-five states undertaken in 1954 by The Governmental Affairs Institute, Washington, D. C., for the Commission on Intergovernmental Relations, pp. 19-21.
CHAPTER IX

AGRICULTURAL EXTENSION SERVICE, PLANNING
AND ZONING, AND OTHER FUNCTIONS

Agricultural Extension Service

Inception. Agricultural extension service had its beginning, in the United States, in the need for some method by which to acquaint cotton farmers with an effective means of controlling the boll weevil, a pest which began a general eastwardly movement from southern Texas shortly after the turn of the century. In 1903 the United States Department of Agriculture undertook a program of "education-on-the-farm by the demonstration method," which was supported by a small federal appropriation made for the conduct of demonstrations in areas infested with the cotton boll weevil. Alabama farm demonstration agents were first employed under this program in 1906; their appointments became effective in 1907.¹

¹ The Historical Records Survey, Division of Professional and Service Projects, Work Projects Administration, Inventory of the County Archives of Alabama, No. 61: Talladega County (The Historical Records Survey, Birmingham, 1940), p. 319; P. O. Davis, Director of the Extension Service, Alabama Polytechnic Institute, A Century of Science on Alabama Farms (Alabama Polytechnic Institute, Auburn, 1952), pp. 25-26.
Recognizing the danger of the boll weevil to the economy of the state and expressing the view "that the Farm Demonstration Work [had] been found the most effective means of disseminating...methods" of controlling the pest, the Legislature, in 1911, appropriated $25,000 a year for farm demonstration work and established a State Board of Agriculture to administer the program. The state board was composed of the Commissioner of Agriculture and Industries, as chairman, the director of the Alabama Experiment Station, and a professor of the School of Agriculture (at the Alabama Polytechnic Institute) -- all ex officio -- and two practical farmers named by the ex officio members to serve for terms of two years. The statute provided for the appointment of local agents, to have charge of the farm demonstration work carried on in the counties in which such work was already being conducted in cooperation with the United States Department of Agriculture. The Commissioner of Agriculture and Industries appointed the local demonstration agents, prescribed their duties, and fixed their salaries; but his appointments were subject to the approval of the State Board of Agriculture and of the state agent of the United States Department of Agriculture. The statute also authorized the state board to appoint local agents to carry on farm demonstration work in counties from which
the United States Department of Agriculture had withdrawn its support. Operating under this program, the state had placed a local demonstration agent in each county by 1914.2 Another statute of 1911 authorized the counties,


in their discretion, to appropriate not more than $1,000 a year to supplement the salaries of local agents.3

3. Davis, op. cit., p. 27.

Creation of the extension service. The movement to disseminate among the farm population practical scientific information on subjects relating to agriculture and home economics received additional emphasis upon the passage of the Smith-Lever Act by the United States Congress. This statute, enacted in 1914, broadened the base of agricultural extension work and formally established the program in relation to the states. Under the terms of this legislation, the United States Secretary of Agriculture was authorized to allocate funds, in accordance with prescribed conditions, to colleges designated by the respective state legislatures to administer a program of extension work in agriculture and home economics in cooperation with the federal government. The act further strengthened
the cooperative idea by requiring that federal funds allocated under the act be matched by funds raised within the state. By a joint resolution adopted on January 29, 1915, the State of Alabama accepted the provisions of the Smith-Lever Act, and authorized the board of trustees of the Alabama Polytechnic Institute to organize and conduct agricultural extension work in the state. In September, 1915, the Legislature appropriated the sums necessary to match the federal grant, and authorized the Alabama Polytechnic Institute to expend the federal and state funds in administering the extension program.4

4. Ibid., p. 28; The Historical Records Survey, op. cit., p. 320.

Alabama extension service. The Alabama Extension Service is under the charge of and operates in connection with the Alabama Polytechnic Institute at Auburn. Immediate powers of supervision are vested in a director of the extension service, who is appointed by the president of the Alabama Polytechnic Institute, with the approval of the board of trustees, and serves at the pleasure of the appointing authorities. The duties of the extension service include the following: to aid in the diffusion among the people of Alabama of useful and practical information on subjects relating to agriculture and home
economics; to provide for the continuance and improvement of farm and home demonstration work, for the training of men and women leaders, and for the organization of clubs designed to improve agriculture and farm home life; to promote the welfare of the rural areas through other forms of extension work; and to aid in securing for Alabama the full amounts of federal funds conditionally appropriated under the Smith-Lever Act and other related federal legislation for extension work in agriculture and home economics.  

5. Chapter 4, Title 2, Code of Alabama (1940).

The director has authority, subject to the approval of the president and the board of trustees of the Alabama Polytechnic Institute, to appoint, discharge, and fix the compensation of all employees of the extension service. More than half the counties have Negro farm and home demonstration agents, to work, especially, with the Negro farm population. There is a state staff for them with headquarters at Tuskegee Institute. Negro extension service employees are an integral part of the Alabama Extension Service, and are paid from the same source as other employees.  

The county farm agent. Alabama has at least one county farm agent in each of its 67 counties. The farm agent is appointed by the director of the extension service, and serves for an indefinite term, but may be removed at the discretion of the director. To be eligible for appointment as a farm agent, a person must possess a bachelor's degree in agriculture (or its equivalent) from a recognized college of agriculture; practical experience in farming; experience in county agency work, or work of a similar character; and such other characteristics as the director deems essential for successful teaching and leadership in a rural environment. The farm agent directs all farm demonstration work in the county. His work consists in large measure of disseminating the information compiled by the extension specialists at the Alabama Polytechnic Institute. He gives advice and assistance to farmers in regard to such matters as animal husbandry, poultry raising, horticulture, landscape gardening, entomology, forestry, soils, crops, and marketing farm products. He also supervises the boys' agricultural club work.

8. Ibid.
The **county home demonstration agent**. The county home demonstration agent is a woman, who is appointed in the same manner as the farm agent. She serves under the same conditions of tenure as the farm agent, but works under the supervision of a woman district supervisor. The duties of the home demonstration agent consist primarily of giving practical instruction in such subjects as home furnishing, equipment and care of the house, food preservation, nutrition and diet, the planning of meals, child development, family budgeting, recreation, and the responsibility of the homemaker in the farm family. In addition to these duties, she carries on club work among the farm women and girls as a means of promoting interest in the extension program.\(^9\)

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**Financing the extension program.** Agricultural extension work is financed by federal, state, and local funds. Federal funds for extension work are received under appropriations made by the Smith-Lever Act and a number of other related and supplementary federal statutes.\(^10\)

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10. **Davis, op. cit.**, p. 29

The state makes regular appropriations for extension service in the education appropriation act, and from time to
time makes supplementary appropriations for specific purposes. Any county may appropriate county funds to be used in cooperative agricultural extension work, upon the approval of the proposition in a referendum ordered by the county governing body at the petition of at least 10 per cent of the qualified electors of the county.\textsuperscript{11}

\begin{itemize}
\end{itemize}

A portion of the state sales tax receipts distributed among the counties may also be used for extension service in cooperation with the state and federal agencies. During the year 1950 the State of Alabama expended approximately $2,618,000 in federal, state, and local funds for agricultural extension service. Federal funds amounted to approximately $1,180,000. During the year 1951 approximately 55 per cent of all funds available for extension work were derived from federal grants. The state and the counties supplied the remaining funds, with the counties' contribution being slightly more than that made by the state.\textsuperscript{12}

\begin{itemize}
\item[12.] Davis, \textit{op. cit.}, p. 29.
\end{itemize}
PLANNING AND ZONING

Planning. Within the last several decades the necessity for controlling and directing systematically the development of municipalities has become almost universally recognized and accepted. Only in more recent times, however, has the necessity for county planning become equally obvious. The rise of congested areas along the highways, the rapid growth of suburban areas, and the location of industry outside the corporate limits of municipalities—all these factors have contributed to the development of a complex of problems whose solution requires the exercise of planning authority in non-municipal as well as municipal territory. As it was phrased by Harold J. Shamberger:

The systematic development of county areas is a matter of great importance to both urban and rural residents. As industries locate within the county and established industries expand, new families arrive to work and live in the community, and as new urban sections are created around the periphery of municipalities and along highways, the extension of public improvements becomes necessary. Overcrowded school plants become inadequate and must be enlarged or replaced entirely. Problems which arise in connection with water supply, sewage and waste disposal, recreation, fire protection, public health, street lighting, and streets eventually must be recognized and solved. The citizens of counties which are predominantly rural are equally interested in facilities which make communities more attractive and more desirable places in which to live. Residents of both
rural and urban counties are concerned with situations which endanger the health of their communities or in any way make them less desirable neighborhoods.¹³

With the sole exception of Jefferson County, Alabama counties do not possess the authority to deal with all such problems through a planned program of development and improvement of non-municipal territory. However, there are provisions of law under which particular aspects of the physical development of non-municipal territory may be planned and controlled perhaps to a greater degree in Alabama than is possible in many other states.

Under the general laws of Alabama, it is possible for any two or more cities or counties to make application to the Governor for the establishment of a regional planning commission with authority to adopt, amend, and extend a master plan for the physical development of the region thus established. If the Governor finds that it is to the public interest that a region be established for planning purposes, he may grant the application, define the boundaries of the region, and appoint a planning commission for the entire region.¹⁴


¹⁴ Section 809, Title 37, *Code of Alabama* (1940).
The provisions of law governing the establishment and operation of regional planning commissions are contained in Subdivision 4, Article 3, Chapter 16 (Sections 809-814), Title 37, of the state code.

The commission is composed of nine persons, who serve for staggered terms of six years. The members serve without compensation, but are reimbursed for necessary expenses incurred in the performance of their duties. After a public hearing, they may be removed by the Governor for inefficiency, neglect of duty, or malfeasance in office; but the Governor must file a written statement of his reasons for the removal of any member. Vacancies may be filled by the Governor for the unexpired term. The amount which a regional planning commission may expend during any year is fixed by the commission, subject to the approval of the Governor, who apportions this expense among the respective municipalities, counties, and other taxing districts and political subdivisions within the region.

The master plan prepared by the regional planning commission must be based on comprehensive studies of the present and future development of the region, with due regard to its relation to neighboring regions, to the state as a whole, and to neighboring states. The law provides that the plan must show the commission's recommendations for the physical development of the region and may include, among other things, (1) the general location,
extent, and character of streets, parks and other public ways, grounds and open spaces, public buildings, and properties and public utilities (whether publicly or privately owned or operated) which affect the region as a whole or which affect more than one political subdivision of the state within the region; (2) the general location of forests, agricultural, and open development areas for purposes of conservation, food and water supply, sanitary and drainage facilities, or the protection of future urban development; and (3) a zoning plan for the control of the height and area, or bulk, location, and use of buildings and premises, and of the density of population. The purpose of the master plan is to guide and accomplish a coordinated development of the region and of public improvements and utilities which do not begin and terminate within the boundaries of any single municipality or which do not relate exclusively to the development of any single municipality.

After adopting the regional plan, the regional planning commission must send a copy of the plan to the Governor, to the planning commission of each municipality within the region, or to the governing body of each municipality not having a planning commission, to the governing body of each county wholly or partly included within the region, and to other organized taxing districts
or political subdivisions wholly or partly included within the region. A regional plan may be adopted by the municipal planning commission of any municipality within the region. After its adoption by the municipality, the regional plan assumes the status of a municipal plan, and has the same force and effect as provided by law for plans made and adopted by municipal planning commissions. Before adopting any amendment of the municipal plan which would constitute a departure from the regional plan, the municipal planning commission must submit the proposed amendment to the regional planning commission for its opinion.

After the adoption of the regional plan by the regional planning commission no street, park or other public way, ground, or open space, public building or other public structure, and no public utility, whether publicly or privately operated, may be constructed or authorized in non-municipal territory within the region unless the proposal has first been submitted to and approved by the regional planning commission. In cases of disapproval by the regional planning commission, its action may be overruled by the municipal or county governing body only by a vote of not less than two-thirds of its membership.

Regional planning commissions have been established in a number of Alabama counties—the most notable being
that established in 1942 for Jefferson County, with territorial jurisdiction coterminous with the county boundaries.\textsuperscript{15} Notwithstanding the possibilities inherent in the regional approach to the planning function, none of the regional planning commissions achieved notable success in its operations, and no such commission is in existence at the present time. The Jefferson County regional planning commission was supplanted in 1947 by a county planning commission authorized by a statute which permitted the county governing body to make, adopt, amend, extend, and carry out a master plan for the unincorporated territory of the county, and to create a county planning commission to prepare and administer the plan. This act also granted the commission authority to exercise control over the subdivision of land in non-municipal territory.\textsuperscript{16} A second act of 1947 vested in the county authority to exercise zoning powers in the unincorporated territory outside the

\textsuperscript{15} Tennessee Valley Authority, \textit{op. cit.}, p. 108, lists seven other counties with such commissions: Barbour, Bullock, Choctaw, Coosa, Fayette, Marshall, and Shelby. This study was published in 1940. For an account of the Jefferson County Regional Planning Commission see Weldon Cooper, \textit{Metropolitan County: A Survey of Government in the Birmingham Area} (University, Alabama, 1949), Chapter V.

police jurisdiction of incorporated municipalities, and to enforce the zoning resolution through the use of building permits.\textsuperscript{17} Thus Jefferson County now possesses


authority not only to adopt a plan for the development of non-municipal territory but also to carry out and enforce the plan through powers of subdivision control, zoning, and building regulation.\textsuperscript{18}

\textsuperscript{18}. Legislation was passed in 1956 granting similar planning and zoning powers to Chambers County (Act 11 and Act 16 of the 1956 second special session). The application of this legislation was conditioned upon its approval by the voters, and the proposal failed to carry in the referendum.

The broad extent to which municipalities in Alabama may exercise extraterritorial planning authority is another (and, in practice, much more important) factor which offsets, to a considerable extent, the lack of authority in the counties to control adequately the physical development of non-municipal territory. The general law of Alabama provides that any municipal planning commission may "make and adopt a master plan for the physical development of the municipality, including any areas outside of its boundaries which, in the commission's judgment, bear
relation to the planning of such municipality."\textsuperscript{19} In practice, the municipalities have assumed authority to exercise planning powers over all non-municipal territory lying within five miles of their corporate boundaries.\textsuperscript{20}

\textsuperscript{19} Section 791, Title 37, Code of Alabama (1940).

\textbf{Implementation of the plan.} A formal plan for the development of an area is implemented through such measures as zoning, building control, and subdivision regulation. Zoning is a device by which territory may be divided into a number of districts, and, within such districts, by which the erection, alteration, repair, or use of buildings, and the use and occupancy of land, may be regulated and controlled. The purpose of regulating the land and buildings is to effectuate the plan prepared for the development of the area. Subdivision regulation involves the exercise of control over the location and establishment of roads, streets, parks, playgrounds, transportation facilities, water supply, and sanitary facilities, and the regulation of such other matters as the arrangement and size of lots, all in accordance with the provisions of the master plan governing the development of
undivided land. Subdivision control is normally exercised through the requirement that a plat of the proposed sub­division must be submitted to the planning commission for its approval before the plat is recorded and the land is sold to other persons. Building regulation can be used as a means by which to enforce the zoning ordinance, to assure the construction of buildings in accordance with the existing plan as well as to insure their structural soundness.

Lack of control over the use of non-municipal terri­tory leads to a number of problems, one of the most im­portant of which is the growth of "blighted areas" along the periphery of an incorporated municipality. Such areas present a serious obstacle to the orderly development of municipal territory. Where counties do not possess plan­ning and zoning powers, the only effective solution to the problem is to endow municipalities with broad extraterri­torial authority. As suggested above, this approach to the problem has been followed in Alabama. Any Alabama municipality may exercise subdivision control over lands lying up to five miles beyond its corporate limits, and the municipalities have assumed the same jurisdiction with respect to planning and zoning.21

21. Ibid.; Section 797, Title 37, Code of Alabama (1940), as amended. See, also, "County Airports," below.
CORPORATE SERVICES

As noted in Chapter II, the county is a quasi-corporation, and, as such, exists primarily as an agent of the state. It is a political subdivision of the state, created to assist in the administration of state functions. A municipal corporation, on the other hand, functions not only as an agent of the state, but also as an instrument for the satisfaction of local needs. However, the laws of Alabama, especially since the 1930's, have authorized the counties to render numerous local services of the type usually associated only with municipal corporations. 22

22. The reader will note that I have entitled this subdivision "Corporate Services." In so doing, I am using the term "corporate" to distinguish the services provided by local governments for the satisfaction of local needs from the services rendered by local governments as agents of the state. Jefferson County was assigned responsibility for handling sewage disposal as early as 1901. At that time, this function was generally considered as wholly municipal in character. Nevertheless, the sanitary problems caused by the uncoordinated disposal activities of some 17 separate municipalities within the county called for drastic action, and the framers of the legislation readily assigned this function to the county. The 1901 act created a sanitary district with boundaries co-terminous with the county, and authorized the levy of a countywide tax for the construction and operation of sewers and sewage disposal facilities. Originally, the district was governed by a commission, which was made accountable to the Jefferson County governing body in a number of ways; but an act of 1909 abolished the commission and transferred its functions and duties to the governing body of the county. Cooper, op. cit., Ch. VIII. The Jefferson County sanitary system is provided
for by special constitutional and statutory provisions, and is not, therefore, an illustration of a county sewer system acquired and operated under the general laws described below. It should be pointed out, also, that the courts have held that the Jefferson County sanitary system, for purposes of determining tort liability, is a "governmental" rather than a "corporate" activity. Jones v. Jefferson County, 206 Ala. 13, 89 So. 174 (1920), cited in Cooper, op. cit., p. 54.

Local, or corporate, services which may be performed by Alabama counties include utility services, airport service, hospital service, library service, water conservation and irrigation services, forest protection, and the provision of public housing and recreational facilities.23

23. Library service is discussed in Chapter VII. Subdivision 4, Article 2, Chapter 6, Title 37, Code of Alabama (1940), as amended, authorizes the issuance of public improvement revenue bonds for the acquisition or construction of a number of county "undertakings," including causeways, tunnels, viaducts, bridges, highways, parks, airports, docks, hospitals, public markets, tennis courts, swimming pools, golf courses, auditoriums, incinerator plants, electric systems, cold storage plants, and plants for the conversion of agricultural produce into marketable products.

Utility services. Under general provisions of law applicable to both counties and municipalities, any county in Alabama may acquire any one or more of the following utility systems: a water works system, a sanitary sewer system, a gas system, and an electric system.24 However,

24. Subdivision 3, Article 2, Chapter 6 (Sections
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308-340), Title 37, Code of Alabama (1940), as amended. Subsection 18 of Section 12, Title 12, Code of Alabama (1940), as amended, which relates to the authority of county governing bodies generally, authorizes counties to lay trunk lines of sewers and to construct sewage disposal plants. This authority is granted on the basis that such measures are necessary to improve health conditions in the county, and the section stipulates that no sewers may be laid without the written approval of the State Health Officer. Subdivision 5, of the article, chapter, and title cited above, contains an alternative system of acquiring an electric system.

no county has the authority to construct a utility system in any portion of the county in which there is located a similar system operated by a private company. Any county which owns and operates a utility system may improve, enlarge, extend, and repair the system, and furnish the services of the system to domestic or industrial users, or both, either within or outside the county boundaries. Furthermore, the county may consolidate any two or more of its utility systems, and provide for the operation of the consolidated system as one unit.

The county may issue its revenue bonds either to finance the acquisition, improvement, enlargement, extension, or repair of a utility system; or to refund any outstanding bonds; or both to finance a project and to refund its bonds. Bonds issued for utility purposes are payable solely from revenues derived from the operation of utility systems, but may be made payable from any utility revenues regardless of whether or not the bonds
were issued in connection with the utility from whose revenues the bonds are made payable. The authority of the counties to provide utility services is remarkably free from state administrative supervision. Rates charged for services furnished by county utility systems are not subject to supervision and regulation by the Alabama Public Service Commission. Neither is it necessary for any county to obtain any franchise, certificate, or permit, other than from the State Board of Health (in connection with sanitary sewer systems), in order to construct, improve, extend, or repair an authorized utility system.

**County airports.** The general laws of Alabama authorizing the establishment and operation of municipal airports are also applicable to counties.25 Under this legislation any county may acquire privately owned lands for airport purposes either by the exercise of the right of eminent domain, by purchase, or by gift. When the necessary land has been acquired, the county governing body may develop the land into an airport, and improve, operate, and regulate the airport and its facilities. The

25. The definition of the word "municipality," as used in the legislation governing municipal airports, includes: "County, city, town or incorporated village of the State of Alabama." See Chapter 2 (Sections 2-36) of Title 4, **Code of Alabama** (1940), as amended.
governing body may adopt regulations for the government of the airport, prescribe penalties for violations of these regulations, and establish and collect fees and charges for the use of the airport or any airport equipment or facility. In the interest of eliminating airport hazards, any county owning and operating an airport may exercise airport zoning authority over all unincorporated territory in the county, except territory within the police jurisdiction of any municipality, or within two miles of a municipal airport, when the municipality also exercises zoning control over these areas.\(^2\)\(^6\) The county may issue bonds either to finance the acquisition of lands for airport purposes, or to extend, enlarge, or improve an existing airport, after the voters have approved the proposal at an election held for that purpose. The statute also authorizes the counties to make contracts with each other (or with municipalities) for the establishment and operation of joint airports.

Statutes enacted in 1945 and 1955 authorize and regulate the issuance of county general obligation bonds, warrants, and certificates of indebtedness for airport
purposes. 27 Under the terms of the 1955 act any county

issuing warrants and certificates of indebtedness for airport purposes may pledge for the payment of such warrants or certificates the proceeds of any county privilege, license, or excise tax levied in the county to construct, maintain, and operate a county airport. 28

28. Marion County levies a county privilege license tax on electric and hydroelectric public utilities, the proceeds of which are partially dedicated to the construction, maintenance, and operation of a county airport. Act No. 58 (Second Special Session), Acts of Alabama, 1955, p. 170, as amended by Act No. 190 (Regular Session, 1955), p. 475.

County hospitals. A number of county hospitals have been established in Alabama under general enabling legislation which provides that any county in the state may authorize the organization of a public corporation to acquire, construct, equip, operate, and maintain public hospital facilities within the county. 29 Any three or

more persons may file an application with the county governing body for authority to incorporate a public corporation for hospital purposes. If the county governing body determines that the applicants are qualified electors and property owners in the county, and that it is expedient that such a corporation be formed, the governing body may adopt a resolution authorizing the applicants to proceed with the organization of the corporation. After its organization the corporation is governed by a board of directors, whose members serve for staggered terms of six years and are appointed by the county governing body.

In addition to other powers, a county hospital corporation may acquire, construct, equip, enlarge, improve, maintain, and operate a hospital; conduct nurses' training schools; borrow money and issue interest-bearing securities in evidence of its borrowing; mortgage, pledge, or otherwise convey its property and its revenues; appoint and employ such officers and agents as its business may require; establish, alter, and collect charges for services rendered and supplies furnished by it; and prescribe rules and regulations for the treatment of charity patients and for the conduct of the hospital. Revenues which may be mortgaged or pledged by the corporation as security for the payment of its securities include
(1) taxes levied for the support of the hospital, or the proceeds of which have been appropriated to the corporation by either the Legislature or the governing body of any county or municipality; and (2) revenues derived from the operation of the hospital.

Any county which levies a special county tax for hospital purposes may designate a hospital corporation formed within the county as the county’s agent for the acquisition, construction, operation, and maintenance of public hospital facilities. After the county has designated the corporation as its agent, the tax collector must pay over to the corporation the proceeds of the special hospital tax. The corporation may issue securities in anticipation of the proceeds derivable from the county hospital tax, but such securities are solely the obligations of the corporation. The county is not liable for any obligation created by the hospital corporation; its securities do not, in any event, constitute county indebtedness.

**County water conservation and irrigation services.** An act of September 9, 1955, authorizes the governing body of any county in the state to provide for the creation of a water conservation and irrigation corporation for the
A county water conservation and irrigation corporation formed under the act is governed by a board of directors composed of five persons appointed by the county governing body. Members of the board of directors must be qualified electors and property owners of the county in which the corporation is formed. Directors serve for staggered terms of six years, and are eligible to succeed themselves in office. Vacancies are filled by the county governing body for the unexpired term. The corporation may issue revenue and revenue refunding bonds to finance the construction of water supply, conservation, or irrigation projects. The bonds are payable from the tolls, rentals, sales receipts, or other revenues derived by the corporation from the operation of the project.

Forest protection. In 1939 the Legislature enacted a general statute which provided that for the purpose of receiving the financial and supervisory cooperation of the State Department of Conservation, under that department's forest protection program, the governing body of any county in the state could levy a special annual tax (not to exceed four cents an acre) against the forested
 acreage of the county. However, the Attorney General

31. Codified as Chapter 16 (Sections 200-207), Title 12, Code of Alabama (1940).

ruled the statute unconstitutional; and its provisions never became fully effective. Subsequently, the Legislature enacted a second statute under which counties could provide forest protection through participation in the State Department of Conservation's fire protection program.


The later act, an act of 1955, provided that the county governing body, after a public hearing had been held on the question, could assess the cost of the forest protection program against the owners of forest land in the county; subject to the stipulations (1) that the assessment must not exceed five cents an acre, and (2) that the amount of the assessment must not be greater than the benefit accruing to forest lands because of the
availability of fire protection. All funds accruing to the county from such assessments must be deposited in the county treasury, to the credit of a special county fire protection fund which may be expended only in connection with the State Department of Conservation's fire protection program within the county.

Recreation. The governing body of any county in the state may create a recreation board to conduct a recreation program for the county. A county recreation board consists of five members appointed by the county governing body from among residents of the county who have a recognized interest in recreational activities. The board members serve for staggered terms of five years. Members of the board serve without compensation. The county recreation board may employ a county director of recreation. The director, subject to the approval of the board, may, in turn, employ such assistants as are necessary to carry into effect the recreation program determined by the board. The director and staff serve at the pleasure of the board, and receive such salaries as may be fixed by the board.

The county governing body may make appropriations
from the county general funds for the support and maintenance of the board, a recreation program, and recreational lands, buildings, equipment, and facilities. Also, the governing body may designate for use as parks, playgrounds, and recreation centers any land or buildings under the control of the county; acquire lands and buildings for recreational purposes; and improve and equip, or appropriate funds to the board for improving and equipping, the lands and buildings so acquired. Any county may join with other counties or municipalities in acquiring property for recreational purposes, operating and maintaining recreational facilities, and establishing and maintaining a joint recreation board.

**County housing authorities.** Any 25 residents of a county may petition the county governing body to conduct a public hearing to determine whether there is a need for the creation of a housing authority for the county. After the hearing, the county governing body must determine whether unsanitary or unsafe inhabited dwelling accommodations exist in the county or whether there is a lack of safe and sanitary dwellings available for the county's inhabitants. If the governing body finds that either one or both such conditions exist within the county, it may adopt a resolution setting out its findings to that effect. If the governing body determines that neither of the
If any petition is denied, a subsequent petition may be filed after the expiration of three months from the date on which the prior petition was denied. 35

35. County housing authorities are provided for by Chapter 3, Title 25, Code of Alabama (1940), as amended. Records on file in the office of the Secretary of State indicate that housing authorities have been organized (at one time or another) in the following counties: Autauga, Barbour, Bullock, Chambers, Chilton, Choctaw, Coffee, Colbert, Cullman, Dale, Dallas, Elmore, Etowah, Fayette, Geneva, Hale, Henry, Houston, Jefferson, Lamar, Lee, Lowndes, Macon, Marengo, Marion, Marshall, Montgomery, Perry, Pickens, Pike, Randolph, Russell, Sumter, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, and Winston.

If the county governing body determines that there is a need within the county for a housing authority, the governing body of the county appoints five housing commissioners, who, after incorporation of the authority, function as its operating head. Housing commissioners serve for staggered terms of five years. The county governing body may remove a housing commissioner for inefficiency, neglect of duty, or misconduct in office, but only after notice and hearing. A county housing authority has territorial jurisdiction throughout the county, except for that portion of the county within the limits of an incorporated municipality.

The function of the county housing authority is to
provide safe, sanitary, and uncongested dwelling accommodations for persons of low income. To this end, the authority is empowered to investigate into housing conditions and into the means of improving such conditions; to determine where unsafe or unsanitary housing conditions exist; to make recommendations on the clearing and reconstruction of areas in which unsafe or unsanitary housing conditions exist; and to acquire and operate low-cost housing projects. The authority may undertake a housing project either on its own initiative or take over a project owned by the county or any other government. The county housing authority is empowered to borrow money or accept grants from the federal government in aid of the construction of any housing project which the authority undertakes. In addition, it may issue its revenue bonds to finance the construction of a housing project. The bonds and other obligations of a housing authority are solely the debts of the authority; they do not constitute obligations of the county.

Although the authority may lease or rent any of its housing accommodations and establish and revise its rental charges, it must fix its rates at the lowest possible point consistent with providing decent, safe, and sanitary dwelling accommodations for persons of low income. It must rent its accommodations only to persons who lack the
financial ability to live in safe, sanitary dwellings; and it may charge only such rentals as are within the reach of such persons. Furthermore, the authority may not accept as a tenant in any low-rent housing project any person whose annual income (aside from an exemption of $100 for each minor member of the family) is in excess of five times the annual rental of the quarters to be furnished. 36

36. The information presented in this section on public housing was drawn from ibid.; from Tennessee Valley Authority, op. cit., pp. 11-113; and from Act No. 614, General Acts of Alabama, 1939, p. 981, as amended.

If the governing bodies of two or more counties determine that there is need for a joint housing authority, they may form a regional authority. Upon the creation of a regional housing authority, any county housing authority then in existence within the region, is abolished. However, no county may participate in a regional housing authority, if a county housing authority in existence in the county has any bonds or notes outstanding, (1) unless all the holders of the outstanding securities agree to the substitution of the regional authority for the county authority in all the outstanding securities, and (2) unless the commissioners of the county housing authority consent to the transfer of all the rights, contracts,
obligations, and property of the county housing authority to the regional authority.\textsuperscript{37}


\textbf{COUNTY PUBLIC BUILDING AUTHORITIES}

An act of 1951 authorizes the incorporation in any county of a public corporation to provide buildings for use by the county in the performance of its governmental and public functions.\textsuperscript{38} The statute invests such a corporation with all powers necessary to accomplish its purposes, including the authority to lease its buildings to the county and to issue interest-bearing revenue warrants to pay the cost of acquiring, constructing, improving, enlarging, and equipping the project. The county is authorized to pay rentals out of its current revenues for the facilities leased from the corporation. The corporation's securities are payable solely from its rentals; its securities do not constitute a debt of the county. Several counties, of which Pike is probably the most outstanding example, have taken advantage of the statute as

\textsuperscript{38} Act No. 682, \textit{Acts of Alabama}, 1951, p. 1172, as amended.
a means of erecting a new courthouse and jail without
issuing general obligation bonds. 39

39. At least two other counties (Houston and Dale)
have considered the possibility of taking similar action.
See The Montgomery Advertiser, May 16, 1956, p. 3B; May
18, 1956, p. 14D.

SUMMARY AND CONCLUSIONS

Agricultural extension service involves the dissemination among the farm population of practical information
on subjects relating to agriculture and home economics.
This work is carried on in each county by farm and home
demonstration agents, under the supervision of a state
director of extension service. The county farm agent
gives advice and assistance to farmers in regard to such
matters as animal husbandry, poultry raising, horticulture,
landscape gardening, entomology, forestry, soils, crops,
and marketing farm products. The duties of the home
demonstration agent consist primarily of giving farm women
practical instruction in such subjects as home management,
child development, and recreation. Both the farm agent and
the home demonstration agent engage in extensive club work
with farm youth. Alabama has at least one extension agent
in each of its 67 counties; more than half the counties
have Negro farm and home demonstration agents to work with
the Negro farm population. The extension program is financed by federal and state as well as county appropriations.

The rise of congested areas along highways, the rapid growth of suburban areas, and the location of industry outside the corporate limits of municipalities—all these factors have created a necessity for planning the development of non-municipal as well as municipal territory. Under the general laws of Alabama, a county may join with other local governments for the establishment of regional planning commissions. Although several regional commissions have been established in Alabama, none achieved notable success in its operations, and no such commission is in existence at the present time. A formal plan for the development of an area is implemented through such measures as zoning, building control, and subdivision regulation. Jefferson County is the only county in the state with authority to control the development of non-municipal territory through the exercise of such powers. On the other hand, Alabama municipalities may exercise subdivision control over lands lying up to five miles beyond their corporate limits, and the municipalities have assumed the same jurisdiction with respect to planning and zoning. Thus, the broad extraterritorial authority exercised by Alabama municipalities offsets, to a considerable
extent, the lack of authority in the counties to control adequately the physical development of non-municipal territory.

The traditional view of the county is that it exists primarily as an agent of the state. However, Alabama counties are now authorized to render numerous local services of the type usually associated only with municipal corporations. Such services include utility services, airport service, library service, hospital service, forest (fire) protection, and the provision of public housing and recreational facilities. It should be noted, however, that the authority to provide such services is permissive rather than mandatory. Consequently, it should not be assumed that these services are actually performed throughout the state. There is a vast difference between the authority of Alabama counties to provide corporate services and actual practice in regard to the exercise of such authority.

In some instances (utilities, airports, and fire protection), the performance of corporate services is subject to the general oversight of the county governing body. But the recreation and library functions are administered under the supervision of separate boards, appointed by the governing body of the county; and other corporate services (hospitals and public housing) are
administered by locally created corporations or authorities. Water conservation and irrigation services and the erection of public buildings may also be performed through local corporations. Sometimes independent boards or corporations are created in an effort to provide more careful consideration to the performance of a particular function than would be possible if the activity were operated under the governing body of the county. The creation of local corporations for the performance of particular functions may also be used as a means to circumvent county debt limitations. By creating a local authority, the construction or expansion of particular facilities may be financed through the issuance of corporate revenue bonds, without having the indebtedness charged against the county's constitutional debt restriction.

Regardless of the reasons for their creation, the use of independent boards and corporations compounds the structural confusion characteristic of Alabama county government. Thereby, the practice creates additional problems of supervision, coordination, and responsibility. To provide for the establishment of a labyrinth of county created local corporations for quasi-public purposes is not, therefore, an adequate solution to the problem of financing new or expanded facilities. Rather, the
solution seems to lie in the development of an improved method of county debt control. At times, especially

40. Suggestions are offered in this regard in Chapter X.

where financing is a serious problem, circumstances may justify the utilization of the corporate device. Moreover, an independent board or authority may be justified where the joint action of two or more local governmental units is necessary. It should be recognized, however, that the use of such devices scatters administrative authority and further weakens the accountability of the county government to the voters. Consequently, action in regard to the creation of independent boards, corporations, or authorities should proceed with caution.
CHAPTER X
FINANCIAL ADMINISTRATION

Revenues. County revenues in Alabama are derived from three principal sources: local income, state shared revenues, and grants-in-aid. Taxes furnish the bulk of the revenues raised locally, with such other income as fines, fees, penalties, costs, and assessments contributing the remainder. Although declining in relative importance among all sources of county revenue, the general property tax remains the most productive of local taxes.\(^1\) Because of its primary importance as a producer of local tax revenue, the property tax will be dealt with extensively in this chapter.

\(^1\) The Alabama Revenue System: Report of the Revenue Survey Committee, an Interim Committee of the 1945 Legislature (Montgomery, 1947), p. 34.

\(^2\) This discussion of the property tax in Alabama is based on Alabama Legislative Reference Service, State Ad Valorem Taxation (Montgomery, 1952); and The Alabama Revenue System: Report of the Revenue Survey Committee, an Interim Committee of the 1945 Legislature (Montgomery, 1947). The latter work is cited hereafter as The Alabama Revenue System.

of Alabama specifies that all taxes levied on property
"shall be assessed in exact proportion to the value of such property," and that the property of private corporations, associations, and individuals of the state must be taxed at the same rate. In implementing this constitutional provision, the Legislature has stipulated that for tax purposes property must be assessed at 60 per cent of its fair and reasonable market value. The Legislature further defined the tax base by enumerating particular objects of taxation. The property tax is a general tax, however, in that it applies to all property not specifically exempted. Various types of property have been exempted from the tax by legislative action.

Rate. The Constitution allows a maximum county tax rate of 18.6 mills, allocated as follows:

a) Five mills for general purposes

b) Two and one-half mills for roads, bridges, and public buildings


4. Section 17, Title 51, Code of Alabama (1940).

5. Article XI, Section 215.

6. Ibid.
c) One mill for public schools

7. Article XIV, Section 269.

d) Three mills for public schools

8. Amendment III.

e) Three mills for public schools, to be levied by the school districts

9. Ibid.

f) One-tenth of one mill for hospital purposes, to be levied by all counties except Mobile and Montgomery

10. Amendment LIX.

g) Four mills for hospital and public health purposes, to be levied by all counties except Mobile, Montgomery, and Jefferson

11. Amendment LXXII.

Constitutional amendments allow a number of the counties to levy property taxes at rates in excess of the prescribed 18.6 mills.

The county governing bodies levy county property taxes for both general and special purposes at their regular annual meetings in February. Although county property
tax rates vary considerably, the counties most commonly levy a total county tax rate of 14\(\frac{1}{2}\) mills: the five mill tax for general purposes, the two and one-half mill tax for county roads and bridges, the one mill and the three mill countywide school taxes, and the three mill school district tax. A number of counties levy in excess of the 14\(\frac{1}{2}\) mill rate (usually adding the four-mill hospital tax), and a few levy a lesser rate. Barbour County, for example, levied a tax of 21 mills during the fiscal year 1955-1956, while Henry County, during the same fiscal year, levied a tax of only 12 mills. Except for the special hospital taxes, Alabama counties normally levy the maximum rates allowed under the Constitution.12


Apparently, the original purpose of placing rate limitations in the Constitution was to control county expenditures by limiting revenues. The use of constitutional rate limitations, however, soon proved an awkward and ineffective method of control. Changing economic, social, and political conditions brought increasing demands for expanded governmental services, and these demands were met by the adoption of constitutional amendments (both general and local) authorizing additional taxes on property for
particular purposes. Because of this development, the property tax is subject not only to constitutional rate limitation, but also to minute specification of the objects of each element of the total tax rate. These constitutional provisions have rendered the property tax rigid and inflexible, and thereby, have seriously impaired the capacity of the county governing body to make revenue adjustments necessitated by changing conditions. Popular control of governmental expenditures is, of course, a laudable goal; the point here made, however, is that constitutional rate and object limitations are doubtful methods for achieving such control. Probably the answer to the problem lies in providing the county governing bodies with greater flexibility in determining the objects of taxation, and with more effective budgetary and other fiscal controls, coupled with establishment of more politically responsible forms of county government.

Assessment. In Alabama the county is the assessment district for purposes of the general property tax.\(^\text{13}\)

\(^{13}\) This section on assessment is drawn largely from *The Alabama Revenue System*, pp. 87-88.

Property is assessed annually as of October 1, which is the beginning of the assessment period.\(^\text{14}\) From October 1

to January 1, the county tax assessor accepts returns of property as made by the taxpayers. The typical assessment procedure as contemplated by the law, but by no means the uniform practice in all counties, is for the taxpayer to present himself before the tax assessor, and take an oath that he will make true answers to all questions and render a complete list of his property. The tax assessor then interrogates the taxpayer as to the estimated value of his real estate, 43 separate items of personal property which he may own, and property owned by his spouse and minor children. The taxpayer then signs an oath that he has given truthful answers to the questions asked. Failure of the taxpayer to perform these duties constitutes a misdemeanor.

The tax assessor lists the property as it is returned. Land, improvements, and homesteads are separately listed. The taxpayer is required to give his estimated value of all personal property listed, but the law further provides that "nothing in this title is to be construed as requiring the taxpayer to make oath as to the value of the property."\textsuperscript{15} The tax assessor is made by law responsible for satisfying himself as to the validity of all claims for exemption except for homesteads.

\textsuperscript{15} Section 45, Title 51, \textit{Code of Alabama} (1940).
The valuation duties of the tax assessor are perhaps best expressed in the language of the statute, as follows:

The assessor shall, from information entered on the tax return list and from all other information known to him, or which he may procure, proceed to ascertain what, in his best judgment, is a fair and reasonable market value of each item of property returned by or listed to any taxpayer; provided, however, that the assessed value of any real estate or improvements as fixed for taxation for the year next preceding the then current tax year shall be prima facie the basis of the value of such property for assessment for the current tax year and such property shall not be assessed for taxation at a less valuation unless upon evidence submitted to the county board of equalization, as provided for herein, it is found that the assessed valuation of the property reviewed should be reduced; and the assessor shall in separate columns, enter on such list such amount and value, and deduction for exemption to which such taxpayer is entitled; and the tax assessor shall also add to such list any item of property subject to taxation, owned by such taxpayer, or in which he has any interest whatever and which he had failed or omitted to place on such list; and the taxpayer shall be given notice by the assessor, by registered mail, return receipt demanded, or in person, of the items of property added to his assessment list, or items claimed as exempt which are disallowed by the tax assessor after such list has been filed and before the tax assessor has completed his assessment; and the assessor shall upon demand, furnish the taxpayer with a certified copy of his assessment list so amended. In the event the value of real or personal property of any taxpayer is increased by the county board of equalization, herein created, over the assessed value thereof, for the next preceding year, the taxpayer shall be furnished by registered mail, return receipt demanded, or in person, by the secretary of the county board of equalization, with a statement showing separately the value of his personal property, and his real property, and improvements thereon, such statement to be signed by the chairman of the county board of equalization, and also that such taxpayer may
file in writing, with the secretary of the county board of equalization, on or before the last Monday in April, objections to any assessed valuation fixed as herein provided.16


From January 1 to the succeeding third Monday in January the tax assessor serves notice of assessment upon all taxpayers who fail to return to him a list of all their taxable property by January 1.17 After the third Monday in January he must discover, list, and assess property not theretofore listed.18 By the last Monday in February, the tax assessor must have completed his work of listing and valuing property. He must then notify the State Department of Revenue that he has completed his assessment and equalization work and that the tax returns are ready for review and inspection by that department.19 Assessment lists must be delivered by the tax assessor to the county board of equalization not later than the second Monday in
March. Abstracts of assessments must be made out in triplicate and submitted to the State Department of Finance, the State Department of Revenue, and the county tax collector by the second Monday in August.  

The tax assessor is elected for a term of six years, and is paid a salary in several counties, but in most counties is compensated on the fee basis. Under the fee system, the tax assessor receives commissions based on tax collections, and fees based on demands for assessment, subpoenas for state witnesses, notices issued by order of the State Department of Revenue or the board of equalization, and for making returns on escaped property. The county general fund may be used to provide the tax assessor with supplies, and to provide him with additional compensation for his preparation of the assessment book used by the tax collector, land and lot books, and for his performance of certain other functions. The gross
receipts available to the tax assessor are frequently inadequate to finance properly a modern assessment office. Often, the total funds available from fees and commissions are insufficient to provide the assessor reasonable compensation and assistance. Some tax assessors are able to employ only part-time assistance; others find it necessary to use their wives as assistants. Almost all assessors suffer from inadequate office and storage space.²⁴


Boards of equalization. Each county has a board of (tax) equalization, which is composed of three members appointed by the Governor and the Commissioner of Revenue for a term of four years. Appointees are selected from a panel of at least nine nominees submitted by the county governing body, the county board of education, and the municipalities of the county.²⁵ The tax assessor serves as secretary of the board of equalization, but has no voice or vote in its proceedings. The annual term of service and compensation of members of county boards of equalization are determined by a classification system.
based on the total assessed value of taxable property in the counties. The compensation of members of county boards of equalization is paid one-third by the state, one-third by the county, and one-third by any municipality in the county in which the total assessed value of taxable property is equal to or greater than 50 per cent of the total assessed value of all taxable property located within the county. If there is no such city in any county, the compensation of members of boards of equalization is paid one-half by the state, and one-half by the county.26

26. Sections 89, 93, 94, 95, Title 51, Code of Alabama (1940), as amended. The compensation of members of county boards of equalization now ranges from a minimum of $10.00 a day for not more than 80 working days a year (the exact working period to be fixed by the State Department of Revenue) up to a maximum of $9,200 and $8,700, which is the annual compensation of the chairman and members, respectively, in counties having a total assessed valuation of more than $400,000,000 (Jefferson). The classifications are based on tax valuations as of the year 1955. See Section 94, of Title 51, as amended by Act No. 418, Acts of Alabama, 1957, p. 582. The section was actually amended twice in 1957, but Act No. 418 is the later.

Boards of equalization have the important duty and power to inspect, review, revise, and fix the value of all property returned to or listed with the tax assessor. They may also provide for an inventory of all taxable property in the county. But the boards have no responsibility for the valuation of utility properties, which
must be assessed by the State Department of Revenue. The State Department of Revenue is authorized to send agents into any county to act in conjunction with the board of equalization. These agents are empowered to assess any property, subject, however, to the approval of the board of equalization. The boards meet on the second Monday in March, and sit at the courthouse until they have completed their duties of reviewing, revising, and fixing assessment values. Upon completion of the review and adjustment of all assessed valuations, the tax assessor is required to publish notice that the returns are complete, and open for public inspection in his office, and that the board of equalization will hear protests, properly filed in writing, on the first Monday in June. Both administrative and judicial remedies to the board's action are available to an aggrieved taxpayer. He may appeal to the Commissioner of Revenue for a hearing, and, if he desires, appeal the Commissioner's decision to the circuit court of Montgomery County. He may, however, appeal the decision of the board directly to the circuit court of the county in which his property is located. The state also enjoys the right to appeal decisions of the circuit court, but prior approval of an assessment by an agent of the department bars the
state from protesting and subsequently increasing the assessment.  

27. The Alabama Revenue System, p. 91; Sections 95, 97, 98, 100, 103, 104, 106, 107, 110, 140, Title 51, Code of Alabama (1940).

The State Department of Revenue. The law provides for an adjustment of local assessments by the State Department of Revenue "to bring about as far as practicable an equalization throughout the State of the value of the various classes of property subject to taxation, so that the proportion of the fair and reasonable market value of the property as fixed for assessment in one county shall be in due proportion to the fair and reasonable market value of the same classes of property in other counties, fixed on the same basis for assessment, and that such classes of property in every county shall bear their proportion of the tax provided by law." To attain the goal of equal assessment, the department is authorized "to order and direct the board of equalization to readjust and reequalize [assessments] for the current or succeeding tax year, so that each item of property will bear its just proportion of the taxes as provided for herein."  

28. Section 133, Title 51, Code of Alabama (1940).
In addition to the foregoing authority, the State Department of Revenue has general and complete super-
vision and control of the valuation, equalization, assessment, and collection of taxes for the state and the coun-
ties; of the enforcement of the tax laws; and of all county tax officials and all state and county officials, boards,
or commissions concerned with the enforcement of the tax laws. The department may equalize, value, and assess, or re-assess, any property subject to taxation. It has the authority to advise and direct county tax officials; to require the submission of reports concerning the valuation, equalization, and assessment of property and the collection of taxes; to investigate the work and methods of county tax officials; to hold hearings in connection with any matter within its authority; and to issue subpoenas for the appearance of witnesses, including the authority to issue subpoenas _duces tecum_.

Although Alabama law 29 Section 131, Title 51, Code of Alabama (1940).

thus gives the State Department of Revenue ample powers of supervision over local property tax administration, political and taxpayer opposition to strong state leadership in that area of taxation has caused the department to refrain from exercising the full force of its statutory authority.
Collection. The collection of the levies on property by the state and its subdivisions is the duty of the county tax collector, except in some cases in which municipalities (somewhat wastefully) provide for the collection of their own levies. The tax collector is elected for a six-year term. In some counties he is paid a salary; but in most counties his remuneration is based on fees paid for making demands on delinquent taxpayers and for making levies and sales of property, together with commissions on amounts of taxes collected. He, too, must make reports to state authorities and to the treasurers of the various governmental units whose property tax he collects. 30


Productivity. During the year 1955-56, the property tax contributed an estimated $38,791,777 to Alabama counties. Since school funds are separately administered, only $18,149,434 was under the control of the county governing bodies. The components of this sum are segregated in Table XIII, as follows:
TABLE XIII
COUNTY PROPERTY TAX RECEIPTS, 1955-1956

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>To County General Operating Funds</td>
<td>$17,097,902</td>
</tr>
<tr>
<td>To School Funds</td>
<td>20,642,343</td>
</tr>
<tr>
<td>To Special Hospital Funds</td>
<td>1,051,532</td>
</tr>
<tr>
<td><strong>Total County Property Tax Receipts</strong></td>
<td><strong>$38,791,777</strong></td>
</tr>
</tbody>
</table>


Expressed as percentages, property tax receipts contributed approximately 30 per cent of total revenues under control of the governing bodies of the counties, which during 1955-56 amounted to $60,585,616, and 56.5 per cent of total county revenues (excluding school funds) derived locally from all sources. Nevertheless, the property tax now stands second in importance to the shared revenue derived from the state gasoline tax as a source of revenue available for use by the county governing bodies.

**Evaluation of the assessment process.** The assessment procedures utilized in Alabama fail to provide an equitable assessment both within counties and among counties. Table XIV indicates the wide range of ratios of assessed values of selected property to the appraised values of the property within each of the eight counties for which data is presented.31

31. These statistics were based on a field survey conducted by agents of the State Department of Revenue.
TABLE XIV
RATIOS: ASSESSED VALUES TO APPRAISED VALUES, OF EIGHT ALABAMA COUNTIES, 1945

<table>
<thead>
<tr>
<th>County</th>
<th>ALL PROPERTIES</th>
<th>RURAL PROPERTIES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Range of Ratios</td>
<td>Median</td>
</tr>
<tr>
<td>Calhoun</td>
<td>16-99</td>
<td>39.0</td>
</tr>
<tr>
<td>Cullman</td>
<td>13-100</td>
<td>38.0</td>
</tr>
<tr>
<td>Geneva</td>
<td>14-111</td>
<td>38.0</td>
</tr>
<tr>
<td>Jackson</td>
<td>12-109</td>
<td>40.0</td>
</tr>
<tr>
<td>Lowndes</td>
<td>22-125</td>
<td>52.0</td>
</tr>
<tr>
<td>Macon</td>
<td>19-114</td>
<td>46.5</td>
</tr>
<tr>
<td>Madison</td>
<td>19-91</td>
<td>42.5</td>
</tr>
<tr>
<td>Tuscaloosa</td>
<td>16-92</td>
<td>42.0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>County</th>
<th>URBAN PROPERTIES</th>
<th>COMMERCIAL PROPERTIES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Range of Ratios</td>
<td>Median</td>
</tr>
<tr>
<td>Calhoun</td>
<td>25-78</td>
<td>44.0</td>
</tr>
<tr>
<td>Cullman</td>
<td>18-100</td>
<td>35.5</td>
</tr>
<tr>
<td>Geneva</td>
<td>23-67</td>
<td>38.5</td>
</tr>
<tr>
<td>Jackson</td>
<td>25-54</td>
<td>39.0</td>
</tr>
<tr>
<td>Lowndes</td>
<td>22-125</td>
<td>53.0</td>
</tr>
<tr>
<td>Macon</td>
<td>29-113</td>
<td>48.0</td>
</tr>
<tr>
<td>Madison</td>
<td>22-73</td>
<td>50.0</td>
</tr>
<tr>
<td>Tuscaloosa</td>
<td>16-83</td>
<td>49.0</td>
</tr>
</tbody>
</table>


The great range of the ratios clearly indicates the inequitable nature of assessments within counties. The following quotation from the Report of the Revenue Survey Committee of the 1945 Legislature indicates the inequities in assessments among counties in Alabama.

Where the county line is purely a political boundary, that is, not a river or other physical barrier, there are not likely to be value forces in operation that would justify different assessments on connecting lands. Such variations as do
exist would seem to be due almost wholly to differences either in judgment or in policy on the part of the two assessors. Therefore, evidence of consistent differences in values of connecting properties should give further indication of the degree of inequality in assessments between counties.

Field agents made twelve such comparisons. In virtually every case the differences in assessed values on either side of the county lines were extreme. Two illustrations should suffice to make this point.

1. The assessed valuations of thirty-five farms or over 3,100 acres in Etowah County lines were compared with assessed valuations of 43 farms, over 2,000 acres, on the Marshall County side of the line. The assessed values were lower in Etowah County with the exception of two farms. The average per acre assessment was $8.85 in Etowah and $12.95 in Marshall. The range of assessments was from $2.00 to $13.75 per acre in Etowah and from $6.94 to $22.75 per acre in Marshall.

2. Madison-Limestone. Land assessments were higher in Limestone County in six out of seven matched farms than they were on the other side of the county line in Madison County. The average assessed value was $11.56 per acre in Madison and $15.87 per acre in Limestone. The range was from $3.20 to $24.62 in Madison and from $7.66 to $29.11 in Limestone.

All of the evidence points in one direction—extreme inequalities in assessment particularly as between individual properties within counties and as between average assessments among counties. In fact, the inequalities are so great as almost to make a mockery of any pretense that the property tax in Alabama operates in accordance with general rules.32

32. The Alabama Revenue System, p. 87.

Assessments in Alabama are not only characterized by inequities. It is believed that the general level of
assessments is perhaps 20 to 25 per cent of fair and reasonable market value, rather than the 60 per cent required by law. Because of its depressed base, the property tax is not as productive a source of local revenue in Alabama as it is in other parts of the nation.

Defects in the assessment process are numerous. Taxpayers are required to make original returns of their property with the county tax assessor. The assessor queries the taxpayer as to the estimated value of his property, but is not required to inspect the property. Moreover, the previous year's assessment of real property is made by law the prima facie basis of the valuation for the current year. The taxpayer must estimate the value of all personal property listed for taxation, but is not required to make oath as to the value of the property. The tax assessor is further limited by his knowledge that the county board of equalization has authority not only to review and adjust taxpayers' complaints concerning their assessments, but also to revise and fix the value of all property listed with the assessor. These factors, coupled with inadequacies in regard to training, supervision, and financing, preclude the tax assessor from making sound, independent judgments as to the value of taxable property. As the Revenue Survey Committee put it, "His annual valuations for assessments necessarily must
be almost wholly either copies of the preceding years' valuations or a modest appraisal of real property not previously appearing on the tax roll." 33

33. Ibid., p. 88.

The appointive boards of equalization were created in 1939, apparently on the assumption that they would be more politically independent, therefore more effective assessment instruments, than the elective assessors. In practice, however, most boards of equalization seem to rely heavily upon the tax return lists, along with their personal information and judgment, rather than upon inspections and systematic assessment practices, in making their determinations of assessed valuations. Their creation does not appear to have effected an improvement in assessment methods; rather, their authority to fix assessed values appears only to have divided responsibility and caused unnecessary confusion in regard to the making of original assessments.

Improvement in assessments would alleviate the problem of inequalities in the assessment, and would also provide a valuable means of procuring additional revenue for county general funds and for educational needs. Unfortunately, the State Department of Revenue was long unwilling to exercise vigorously its powers of supervision
and control over the assessment process. In recent years, however, that department has demonstrated a change in its traditional policy in the matter of improving the assessment. Within the limits imposed by insufficient funds for such purposes, the department now seeks to provide guidance and assistance to tax assessors generally, and to assist particular counties in the conduct of inventory and reappraisal programs. It is possible that in this direction—the expansion of state activities in regard to the instruction and supervision of local tax officials, as well as assistance in board of equalization inventory and reappraisal programs—lie the remedies to many of Alabama's problems of property tax administration.

Jefferson County has not waited upon the development of such an expanded program of state supervision and assistance. Operating under the "unit system" of assessment (that is, an assessment against the unit of real estate rather than the taxpayer), Jefferson County has been better able to maintain assessment ratios and to raise the general level of assessments than other counties of the state. Because of Jefferson County's success with the unit system, it is suggested that this method of assessing property should be adopted generally. After the installation of the unit system of assessing property, the authority of the boards of equalization to make
original assessments should probably be eliminated. If this were done, the power to make the original assessment would be clearly concentrated in the tax assessor. The boards of equalization could be retained as boards of review. Their composition could remain unchanged, or they could be altered to provide taxpayer representation.

Another aspect of the assessment problem in Alabama is that counties are encouraged to engage in competitive undervaluation, not only to lower local liability for the state tax, but also because of the method of basing state education aid largely on local assessments. If, after the adoption of the changes suggested above, competitive undervaluation were to remain a problem, assessed valuation could perhaps be eliminated as a factor in the apportionment of state school funds among the various counties. If need be, the Department of Revenue might be authorized to prescribe a minimum assessment ratio, and to penalize counties which assess property below the prescribed minimum. Assessment levels could be determined through the use of field surveys, such as those conducted (in 1945) in connection with the 1945-47 study of the state's revenue system. Since the property tax is most intimately related to the operation of the public schools, the penalty could perhaps be the withholding of state
education equalization grants from counties in which the assessment falls below the prescribed figure.\(^{34}\)

\(^{34}\) The Council of State Governments, *The Book of the States, 1950-51* (Chicago, 1950), pp. 166-168. See this article for recent efforts by states to improve property tax assessments.

To conclude this discussion, it should be emphasized that the faulty organization and procedures utilized in Alabama have produced an assessment not only well below the statutory requirement but characterized also by inequalities both within counties and among counties. Jefferson County's experience has demonstrated that the application of modern, systematic methods can produce a satisfactory assessment. The same could be done for the other counties of the state.

**Other local tax sources.** Counties possess no inherent powers of taxation, and may levy only such taxes as are expressly authorized by the state Constitution or the Legislature. The general property tax has been the traditional mainstay of the county revenue system, but as that tax failed to provide sufficient revenues to meet an increasing demand for services, the county has been authorized to turn to other, non-property, sources of tax revenue. The property tax remains the most productive single source of county tax revenue. However, such non-property taxes as those on gasoline and tobacco, and
county sales and use taxes, are steadily increasing in importance as producers of county income. At least three counties (Escambia, Jefferson, and Mobile) now levy taxes on sales of cigarettes, and a number of counties levy gasoline, sales, and beer taxes. Such taxes are either authorized or imposed by local legislation applicable to particular counties. While such a scheme violates basic principles of equality of taxation and creates problems of evasion within the state, it does enable these counties to make provision for the support of services or functions thought locally desirable.

A rather large number of county privilege license taxes are levied on business activity in Alabama. Persons engaging in particular lines of economic endeavor must obtain not only a state privilege license, but a county license as well. The licensing function is administered almost uniformly by the judge of probate, who, as licensing officer under the general law, issues both state and county licenses and remits the proceeds to the proper treasury. County license fees are levied at one-half

35. In Mobile County the licensing function is administered by an official known as the "License Commissioner;" and in Jefferson County, by a similar official now known as the "Director of Revenue." See Cooper, op. cit., pp. 19-20, for a description of this significant development in Jefferson County.
the amount prescribed for the state license, except where a different county license fee is prescribed by law, or where no county license is required for the conduct of a particular activity. Legislation enacted in 1955 made a significant change in the manner of distributing the proceeds of state and county licenses. This act provided that wherever both state and county licenses were levied the officer collecting these licenses would continue to collect both licenses, and, of the total amount collected for both licenses, distribute one-half to the state and one-half to the county. The law altered the arrangement formerly existing, under which the county received only the proceeds of the county license fee. Under the new arrangement, therefore, the county receives one-half of the total amount of the state and county licenses, where both are levied, rather than one-third of the total amount, as was formerly the case. When the act was passed, it was estimated that its operation would result
in the accrual of an additional $375,000 a year in former state funds to the counties.\textsuperscript{38}

\textsuperscript{38}. \textit{The Birmingham News}, August 8, 1955.

License inspector. Enforcement of the license tax laws is the specific function of an officer known as the license inspector. The State Department of Revenue is authorized to appoint a separate license inspector for each county, but the department may appoint the same person to serve more than one county. It is the duty of the license inspector to examine the records maintained in the office of the judge of probate, and to examine the records of the municipalities in the county as well; and, if it comes to his attention that any person has failed to secure the proper license, to cite the delinquent to appear before him at the courthouse, to show cause why the license fee has not been paid. The license inspector files a copy of the citation with the judge of probate, and must cause the delinquent to appear before the judge of probate and take out the license. If the delinquent refuses, the license inspector must initiate criminal proceedings against the delinquent; in cases of emergency, he may institute criminal proceedings without causing the delinquent to appear, first, before the judge of probate. The license inspector receives compensation in the form
of citation fees and percentages of the fines or penalties recovered from delinquent taxpayers. The governing body of the county, at the expense of the county, provides the license inspector with citation blanks and other necessary forms.39

39. Section 835, Title 51, Code of Alabama (1940), as amended.

State aid. From the beginning, county government has been primarily responsible for the local administration of state functions. Recognizing the interest of the state in the effective functioning of county government, the Legislature of Alabama has enacted a number of measures providing fiscal assistance for counties. Although such assistance has become a revenue source of major importance in Alabama county government, it can not be said that the state has a systematic program of fiscal aid. There is, however, a great need for systemization in this area of finance because state financial assistance seems to be necessary to a permanent solution of the fiscal problems of county government. State fiscal aid takes two forms: shared state revenues and grants in aid of specific activities. It is toward these sources of revenue that our attention must now turn.

State shared revenues. In addition to their local
sources of income, counties, as noted, also receive revenue through sharing in the proceeds of certain state revenue sources. The state levies a tax on gasoline and other motor fuels at the rate of seven cents a gallon.  

40. See Act No. 42, First Special Session, 1955.

Three-sevenths of the proceeds of the tax, or three cents per gallon, is distributed equally among all the 67 counties of the state.  

41. Sections 655, 657, Title 51, Code of Alabama (1940), as amended by Act No. 44, First Special Session, 1955. An additional cent of the state tax is returned to the counties in the form of grants for road construction.

42. Section 647, Title 51, Code of Alabama (1940), as amended.

own or operate public airports where aviation gasoline is sold or delivered receive a portion of the state tax on aviation gasoline. Counties in Alabama also share in the proceeds of state license taxes levied on the operation of motor vehicles. Local shares of motor vehicle license tax receipts are distributed among the cities and counties of the state on the basis of motor vehicle registrations. The judges of probate must remit to the state 37 per cent of the receipts derived from motor vehicle licenses. The
remaining 67 per cent of such receipts is paid over to the city in which the owner of the vehicle resides, or to the county if the owner resides outside any incorporated city or town.\(^{43}\) Also, three-fifths, or fifteen cents, of the twenty-five cents retained by the judge of probate for receiving the application and fee for a driver's license, and for the issuance of a temporary instruction permit, must be paid by him into the general fund of the county.\(^{44}\)

\(^{43}\) Sections 712, 713, Title 51, Code of Alabama (1940), as amended.

\(^{44}\) Section 4, Title 36, Code of Alabama (1940), as amended.

The state levies a license or privilege tax, on persons consuming carbonic acid gas in the manufacture or production of beverages, in an amount equal to two cents on each pound of carbonic acid gas so consumed. This tax is collected by the State Department of Revenue, but one-third of the proceeds is returned to the counties in which the gas was consumed.\(^{45}\) Counties also share in the revenues derived from the state corporation franchise tax.

\(^{45}\) Section 481, Title 51, Code of Alabama (1940), as amended.
Two twenty-fifths of the amount of franchise tax collected is apportioned among the various counties in which a corporation does business, in proportion to the amount of taxable property of the corporation located in the respective counties. Each county's share of such receipts is determined by the State Department of Revenue, on the basis of assessment figures reported by the corporations paying franchise tax.

The state levies privilege license taxes on deeds, bills of sale, mortgages, deeds of trust, conditional sales contracts, and other instruments which convey an interest in property or which secure the payment of any debt. The law requires such taxes to be paid to the judge of probate before any deed or mortgage may be admitted to record. The judge of probate remits two-thirds of such taxes collected to the state treasury. The remaining one-third is paid into the county treasury. Provision is made for an apportionment of the county share if the property is located in more than one county. Alabama imposes an excise tax of 6 per cent on the net income of financial
institutions, a tax which parallels the income tax of 3 per cent on the net income of other corporations. After deductions are made to cover appropriations made for administrative costs, one-fourth of the remaining proceeds is returned to the counties where collected. Each financial institution doing business in more than one county must report the percentage of its business done in each county, and the county share is apportioned accordingly among the several counties in which the institution conducts business.48

48. Section 429, Title 51, Code of Alabama (1940), as amended.

Originally enacted in 1936 as a luxury tax designed primarily to provide funds for the replacement of state property tax revenues lost through homestead exemptions, the state sales tax is now levied at a rate of 3 per cent on the gross sales, or gross receipts, of business activities. The counties receive a portion of sales tax receipts based upon a statutory formula, which, under present conditions, results in the distribution of a relatively small grant of $378,000 annually among the counties. One-half of the grant is distributed equally among the counties, and the remaining one-half is distributed on the basis of population. These funds must
be used, at the discretion of the governing bodies of the counties, exclusively for the support of full-time health service and agricultural extension work within the several counties.49

49. The balance of the proceeds of the sales tax, along with the net proceeds of the use tax, is paid into the Alabama Special Educational Trust Fund, and, as pointed out in Chapter VII, provides the largest part of the funds with which the state makes equalization grants in support of the public schools. See Articles 10 and 11, Chapter 20, Title 51, Code of Alabama (1940), for the provisions of law relative to the state sales and use taxes. Section 784, as amended, governs the disposition of the revenues derived from the sales tax. Alabama counties no longer receive a portion of the sales tax revenues to finance public welfare activities, as fiscal responsibility for the performance of this function was centralized in the state in 1951. See Chapter VIII.

Whenever the state receives funds from the United States, accruing from receipts from national forests within the state, the Governor must cause these funds to be distributed among the several counties of the state in proportion to the area of national forests located in each county. Actually, the United States Forest Service computes the acreage of national forest land within each county, and transmits a suggested distribution at the time it remits the funds to the state. Normally, the state follows this suggested distribution in apportioning funds among the counties. Upon receipt of any such funds, the county governing body must pay 50 per cent of the receipts
to the board of education of the county, and must expend the remaining 50 per cent of the receipts for the benefit of the public roads of the county. 50 Although a rela-


tively small amount of total county revenue in Alabama is derived from this source, receipts from national forests constitute a considerable portion of the total receipts of several counties.

Counties in Alabama also participate in the proceeds derived from the operations of the Alabama Alcoholic Beverage Control Board. These funds are also distributed among the counties on the basis of a statutory formula. Most of the funds may be used for general county purposes, but a small portion is earmarked for public health purposes. 51 In addition, the entire proceeds of a special tax on beer, levied at the rate of one-half cent on each twelve fluid ounces or fractional part thereof, are
distributed equally each month among all the counties of the state.\textsuperscript{52} Moreover, the counties are authorized to levy license fees upon the sale of alcoholic beverages by hotels, clubs, and restaurants. Such licenses are administered by the Alcoholic Beverage Control Board, but all fees collected therefrom are paid, quarterly, to the counties in which the licenses were levied.\textsuperscript{53}


\textsuperscript{53} Section 17, Title 29, \textit{Code of Alabama} (1940).

In 1945 the state levied a privilege license tax on persons engaged in the business of producing or severing oil, gas, or other hydrocarbons from the soil or the waters, or from beneath the soil or the waters, of the State of Alabama. The amount of the tax is measured at the rate of 4 per cent of the gross value of the oil or gas at the point of production. The amount of such taxes collected each year by the Department of Revenue, less the amount appropriated to defray administrative costs, is distributed among the general fund of the state treasury, the county in which the oil or gas was produced, and the municipalities in such counties, in accordance with the following schedule: (a) 50 per cent of the first
$150,000 to the state, 42\% per cent to the county, and 7\% per cent to the municipalities on a population basis; 
(b) 84 per cent of all additional sums collected each year to the state, 14 per cent to the county, and 2 per cent to the municipalities on a population basis.54


County revenues derived from participation in the proceeds of state revenue sources constitute almost 50 per cent of total county revenues. During the fiscal year ending September 30, 1956, for example, total county revenues, including state funds, were reported as $60,585,616, of which almost $29,000,000 was derived from shared state tax and beverage control revenues. The largest single source of state shared revenue was, of course, the gasoline tax. During the year 1955-56, almost $25,500,000 of state gasoline tax revenues was distributed among the counties within the state. The amounts of state revenues shared with the counties are set out in Table XV.
### Table XV

**State Payments to Counties, Fiscal Year 1955-1956**

*By Source of Receipts*

<table>
<thead>
<tr>
<th>Source of Receipts</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Sale of Tax Land</td>
<td>$ 37,571</td>
</tr>
<tr>
<td>2. Alabama ABC Board - Stores</td>
<td>$ 760,548</td>
</tr>
<tr>
<td>3. Alabama ABC Board - Beer Tax and Licenses</td>
<td>$ 772,797</td>
</tr>
<tr>
<td>4. Alabama ABC Board - County Licenses</td>
<td>$ 118,701</td>
</tr>
<tr>
<td>5. Corporation Franchise Tax</td>
<td>$ 485,277</td>
</tr>
<tr>
<td>6. Federal Funds (Forest Reserves)</td>
<td>$ 225,501</td>
</tr>
<tr>
<td>7. Financial Institutions Excise Tax</td>
<td>$ 277,071</td>
</tr>
<tr>
<td>8. Gasoline Tax</td>
<td>$ 25,473,303</td>
</tr>
<tr>
<td>9. Production Privilege (Oil and Gas) Tax</td>
<td>$ 89,524</td>
</tr>
<tr>
<td>10. Sales Tax</td>
<td>$ 378,000</td>
</tr>
<tr>
<td>11. Sundry Receipts</td>
<td>$ 122,263</td>
</tr>
<tr>
<td><strong>Total Payments to Counties</strong></td>
<td><strong>$28,741,056</strong></td>
</tr>
</tbody>
</table>


Note: The table does not contain the amounts of county revenues derived from motor vehicle licenses taxes and the mortgage and deed taxes, since the county share of these taxes is paid into the county treasury, locally, by the judge of probate rather than by the state.

**Grants-in-aid.** The grant-in-aid is the third major source of revenue for counties in Alabama. Although a measure of control is inherent in the granting of fiscal aid to counties, the distribution of such aid in Alabama appears primarily motivated by a desire to extend or improve, rather than to control, the administration of county functions or services. The principal areas in which grants
are made to counties in Alabama concern education and libraries, highway construction, and public health.

Education was one of the earliest county functions to receive state aid, and grants in aid of education constitute at present the largest part of the amounts so expended by the state. During the fiscal year 1956-57, state aid in support of the public schools amounted to approximately $90,000,000. The amount of state fiscal aid distributed in support of the public schools has increased through the years, both absolutely and proportionately, reaching (in the year 1956-57) 73.7 per cent of total elementary and secondary school revenues.55

55. As noted previously, school funds are administered separately from other county funds and are not subject to control by the county governing body.

Subsidies to county libraries are primarily in the form of books. During the biennium 1953-55, such book grants amounted to $67,000 annually.

The Farm-To-Market Road Act of 1943 provided state grants to counties for the construction of farm-to-market roads. The act created the state county aid fund, composed of a portion (one cent per gallon) of the state's share of the state gasoline tax, and provided that these funds would be expended to reimburse counties for one-half the cost of the construction of such roads. During
the fiscal year ending September 30, 1956, the State Highway Department expended $4,662,813 in aid of the construction of county farm-to-market roads. The State Highway Department also makes grants to the counties for partial payment of the salary of the county engineer.

The county is the local unit for the administration of the public health function in Alabama. During the fiscal year ending September 30, 1956, the sum of $363,307 in state funds was distributed among the counties in aid of county health work. These funds were supplemented by $502,389 in federal funds. Counties also receive state grants toward the care and treatment of patients in county tuberculosis hospitals or sanatoria. During the biennium 1955-1957, the state general appropriation act carried the sum of $1,971,000, annually, to subsidize counties for the treatment of persons suffering from tuberculosis.58

56. The figure was taken from the annual report of the State Highway Department for the year October 1, 1955, to September 30, 1956, p. 21. See Chapter VI for further details concerning the administration of the Farm-To-Market Road Act.


58. Section 199, Title 22, Code of Alabama (1940), as amended; Act No. 348, Acts of Alabama, Regular Session,
1955, p. 797. See Chapter VIII for additional information concerning county health work in Alabama.

**County treasury management.** Responsibility for the custody of county funds, and for their disbursement upon proper authorization, is vested in either a county treasurer or a depository in lieu of treasurer and a separate custodian of county school funds.\(^59\) The office of treasurer is filled by election in all counties of more than 56,000 population not having a county depository or other custodian of county funds in lieu of a county treasurer. The elective county treasurer holds office for a term of four years. Vacancies are filled by appointment of the county governing body, and the person so appointed holds office only for the unexpired term.\(^60\)

\(^59\). See Chapter 3, Title 12, *Code of Alabama* (1940), for the general laws relating to the county treasurer and depository in lieu of treasurer. See Chapter VII of this study, for a discussion of the custodian of county school funds. This present discussion is partially based on Brookings Report, pp. 176-178.

\(^60\). Sections 30 and 31, Title 12, *Code of Alabama* (1940).

The more important duties of the county treasurer are to receive, keep, and disburse the money of the county; to demand and receive all moneys due the county; to institute proceedings against defaulters; to submit to the
county governing body, at its first meeting in October of each year, the register of claims, his account for the previous year balanced as to charges for receipts and credits for payments, vouchers for the payments, and an estimate of the indebtedness of the county for the coming year, and the means of providing for such indebtedness; to make reports and give information to the county governing body, when required, on all matters concerning the finances of the county; and to furnish the judge of probate, in October of each year, a verified statement of all moneys and things of value received by him for the county during the preceding year.  

61. Section 33, Title 12, Code of Alabama (1940).

An act of 1915 abolished the office of county treasurer in counties having a population of not more than 55,000, and established in such counties, except where otherwise provided by local law, a county depository in lieu of a county treasurer.  

62. In 1932, the population figure was changed to 56,000.

the governing body of each such county to select annually some incorporated state or national bank in the county as
the county depository.\textsuperscript{63} All funds formerly paid to the

\textsuperscript{63.} Sections 43 and 44, Title 12, \textit{Code of Alabama}
(1940).

county treasurer were required to be paid into the bank
selected as the depository; all settlements formerly made
with the treasurer were required to be made with the county
governing body; and all reports formerly made by the treas­
urer were required to be made by the county governing body.
Where a depository bank acts in lieu of the treasurer,
accounts are opened and kept in the bank in such manner
and in such funds as the county governing body may direct.
Disbursements are made on the order of the county govern­
ing body, on warrants signed by the presiding officer of
that body. This officer is personally liable for any
warrant drawn and paid by the depository without authority
of law. The bank, semi-annually, must furnish the county
governing body a full and detailed statement of receipts
and disbursements.\textsuperscript{64}

\textsuperscript{64.} Sections 45, 46, and 51, \textit{Code of Alabama} (1940).
The semi-annual statements must be furnished on the second
Monday of January and July in each year.

County depositaries are charged with the same duties
and are subject to the same liabilities, in so far as the
receipt, safekeeping, and disbursement of county funds
are concerned, as are imposed by law upon county treasurers. Banks acting as depositories receive no compensation for their services as county depositories. All duties required by law to be performed with respect to county funds other than the receipt and disbursement of county funds by depositories must be performed by the presiding officer of the county governing body.65 The county governing body must require adequate bond of the bank to secure the safety of the county deposits. The bond may be in such amount as is fixed by the county governing body, giving due regard to the amount of the deposits and their safety.66 If the county governing body is unable to designate a bank as county depository, because of its inability to secure from any bank within the county satisfactory terms for the handling of county funds, the governing body is authorized to appoint a person who may act as county treasurer under such terms and conditions as the governing body may prescribe.67


Under other provisions of law, the county governing
body, upon the request of the tax collector, county
treasurer, judge of probate, circuit clerk, or register,
must appoint a bank or a trust company as a depository in
which these officers may deposit the moneys coming into
their hands. The county governing body may make such re­
quirements as are not inconsistent with the general laws
of the state for the safety of the funds so deposited.
This act, the "Manasco Act" of 1933
was an emergency
measure designed to afford protection for the moneys re­
ceived by collecting officers but not distributed and
deposited in the proper treasury. Because of the number
of bank failures in the state during the depression,
surety companies were hesitant to bond banks as deposi­
tories; and if the tax collector deposited his collections
in a bank which failed to protect his deposits and the
bank closed, that officer, under the law, was guilty of
embezzlement. Consequently, the tax collector, for his
own protection, was forced in many cases to distribute
his collections daily.68


Under the terms of the Manasco Act, any funds which
might be lost by reason of the failure or insolvency of
any bank or trust company appointed under its authority
would not constitute a liability on the official bond of
the collecting officer. Rather, the amount of any loss sustained through bank failure or insolvency would become a preferred claim against the bank or trust company concerned. The tax collector, by being able to deposit his collections daily, was thus relieved of the mountainous task of distributing these funds as they accrued. The application of the Manasco Act also extends to the custodians of county school funds.69

69. The act is codified as Section 4, Title 12, Code of Alabama (1940). The section was amended in 1949.

Budget administration. In 1919 the Legislature enacted a law requiring the governing body of each county to adopt a budget system for the conduct of the county's affairs, and authorized the counties to appropriate from the county treasury sufficient funds to pay the actual expenses of the county as shown in the budget.70 In com-

70. Tennessee Valley Authority, op. cit., p. 37; Brookings Report, p. 179. This provision remains in the Code as Section 14, Title 12, Code of Alabama (1940).

menting on the administration of this provision of the law, the Brookings Institution observed in its 1932 report on state and county government in Alabama that, "As a result of the lack of specification in the law as to what constitutes a 'budget system', there are only random instances
where the county board attempts to plan its finances in advance and later to adhere to the plan.71

71. P. 179.

Subsequent investigations by the Bureau of Business Research of the University of Alabama resulted in a similarly critical evaluation of county financial planning:

In spite of a law, inadequate though it may be, requiring that each county board shall "adopt a budget system for the conduct of the affairs of the county," little attention is given to this important phase of the work. In some counties the only provision made is a division between the various board members of available funds for road and bridge purposes on an equal proration basis with no regard whatever given to the size, population, number of miles of roadways of the different types, of the particular needs of the locality constituting the constituency of the elected member. This, of course, has resulted in much waste and inefficiency in administering these expenditures of the county. Little or no through is given to systematic financial planning.72


As the Brookings Institution also pointed out in its report, waste and inefficiency, with resultant deficits and accumulated debt, were almost inevitable under such conditions.73 The economic depression prevailing at the time

made such unsound fiscal practices doubly intolerable. Consequently, the Legislature enacted the County Financial Control Act of 1935, which provided a more satisfactory legal basis for the conduct of county budgeting operations. 74

74. Codified as Chapter 6, Title 12, Code of Alabama (1940).

Under the terms of the county financial control act, the county governing bodies, at some meeting in September of each year, but in any event not later than the first meeting in October, must (1) prepare and adopt an estimate of the income of the county for the current fiscal year, beginning on October first, for all public funds under their supervision and control; (2) estimate for the same fiscal year the expense of operations; and (3) appropriate for the various purposes the respective amounts that are to be used for each of such purposes. The appropriations thus made must not exceed the total income of the county available for appropriations. In order for the estimate of income and expenses to be made as accurately as possible, the governing body may require every county official who receives incoming moneys, or who may issue orders on the county treasury without the approval of the governing body, to furnish it written reports covering an estimate of such income or the probable amount of the orders.
which such officials will be called upon to issue during the fiscal year under consideration.\textsuperscript{75}

\textsuperscript{75} Section 74, Title 12, \textit{Code of Alabama} (1940).

In the event that an emergency over which the governing body has no control results in any appreciable obligation against the county over and above that which the governing body had anticipated, and for which no moneys from the current year's income are available to pay, the governing body may issue interest-bearing warrants in an amount sufficient to defray the emergency operation. The maturities of principal and interest of these emergency loans must be taken into consideration in the preparation of the budget for the year in which they mature. No such emergency loan may be made, however, unless the governing body investigates and determines that an emergency has actually arisen, and records its findings in its minutes.\textsuperscript{76}

\textsuperscript{76} Section 90, Title 12, \textit{Code of Alabama} (1940).

The county financial control act introduced a measure of needed reform into the matter of county budget administration. It made more specific than formerly the nature of the budget system which the county governing body was to prepare. It provided a basis for more effective
management of county funds under the control of the county
governing bodies, and it provided for a balanced county budget. County budget administration consequently has shown a marked improvement since the enactment of the financial control act in 1935. A number of counties ordinarily employ progressive budget procedures, and the tone of budget administration has improved generally. Nevertheless, there remains a great deal of room for additional improvement. Proper budgeting technique involves serious, comprehensive financial planning—the weighing and balancing of the values of proposed expenditures, and the assigning of each expenditure its appropriate share of the funds available. County budgeting in Alabama too often reflects an apparent practice of merely extending current appropriations into the next fiscal year. 77

77. To illustrate the point, one instance brought to the attention of the writer involved the budgeting of election expenses in an off-year.

Such a practice does not, of course, constitute budget making in any sense of the term.

There are, however, mitigating circumstances surrounding the general lack of systematic financial planning among Alabama counties, for the county governing bodies must labor under several handicaps to adequate budget preparation. Because most counties operate under the
fee system, a large portion of county operating expenses is excluded from the budget. In addition, state grants and shared revenues are normally earmarked for application to particular purposes and are, in large measure, outside the control of the county governing body. The adoption of an "Anti-Diversion Amendment" to the Constitution restricts the use of state gasoline and motor vehicle license tax proceeds to highway purposes only, thus further reducing the flexibility with which shared revenues may be managed.

It seems apparent, therefore, that there is rather small opportunity for real financial planning by the county governing bodies, and perhaps this situation has conditioned some of them to an automatic application of funds. Less extensive earmarking of funds, introduction of the salary system of compensating county officers, and the application of genuine financial planning would enable the county governing bodies to provide for each county a program of expenditures more nearly suited to its needs than is possible under present conditions.
Disbursement of county funds. Counties in Alabama may appropriate funds for only such charges as are required or authorized by law. They have no inherent authority to expend public funds. As it was put by the Supreme Court of Alabama on one occasion, "...county funds are in reality state funds, subject to state control, and no part of which can be expended by the county without express or implied authorization by the state." 80 All claims against the county, except claims which are fixed and made certain by law, must be itemized and sworn to by the claimant, or some other person having a knowledge of the facts, and presented to the county governing body for audit and allowance. If allowed, the claims are registered and filed for future reference. Unless fixed by law, claims against counties normally are barred if not presented for allowance within 12 months after the time they accrue. 81


81. Sections 114, 115, and 118, Title 12, Code of Alabama (1940); Reports of the Attorney General, Quarterly Report, January-March, 1939, p. 123. See Section 110, Title 12, Code of Alabama (1940), for provisions of law authorizing the county governing body to appropriate funds to reimburse persons who in good faith have performed services or advanced money or property for the use of the county in connection with lawful county purposes. This is a little used provision of law designed to protect persons who have performed services for the county in
connection with lawful county purposes, but whose claims
the county would otherwise have no authority to pay.

The general laws of the state prescribe an order of
preference in which claims against the county are payable.82

82. Section 121, Title 12, Code of Alabama (1940),
as amended.

In former years, when there were sometimes insufficient
funds to meet all outstanding warrants, such an order of
preference was necessary to provide funds for the support
of some of the most essential functions of the county.
Under the financial control act of 1935, however, no war­
rant or order for the payment of money may be issued until
funds are available for its payment upon presentation to
the treasurer or depository.83 This provision has, of

83. Section 78, Title 12, Code of Alabama (1940).

course, rendered meaningless the order of preference for
the payment of claims.84 It should be pointed out, how­

84. The section still has some utility, however.
In a few instances it has been cited as authority for the
expenditure of county funds for certain purposes.

ever, that the requirement of a certificate of availability
of funds to be placed on each contract, purchase order,
and payroll, coupled with the encumbrance of the funds,
would be a more effective method of preventing the over-
obligation of appropriations.

Warrants are usually drawn on the county treasury by the judge of probate or other chairman of the county governing body. County officers who are authorized to pay claims which are not required to be approved by the governing body must present orders for the issuance of warrants to the chairman of the county governing body, or other officer authorized to issue warrants on the county treasury. Since 1953, the chairman of the county governing body has been required to audit all claims against the county, except claims which by law need not be approved by that body, in order to determine the factual and legal sufficiency of the claims presented for payment. The chairman must refuse to sign or draw a warrant for the payment of any claim which in his opinion may not be lawfully paid from the county funds. If he does draw a warrant upon the county treasurer or depository in payment of a claim not legally payable from county funds, he becomes personally liable, along with the other members of the governing body, for the unauthorized expenditure of county funds.

85. Section 76, Title 12, Code of Alabama (1940).

86. Act No. 536, Acts of Alabama, Regular Session,
1953, p. 751. An official opinion of the Attorney General or of the county attorney, favorable to the payment, affords protection for these officers against the penalties prescribed for the unlawful expenditure of public funds.

Any unexpended balances remaining in the various funds in the county treasury at the end of the fiscal year are carried forward into the respective funds for the succeeding year. Such balances are treated as part of the income available for the next year, and are managed, appropriated, and disbursed in the same manner as any other income for that year. 87

87. Section 77, Title 12, Code of Alabama (1940).

Accounting. The maintenance of complete and accurate records of county financial affairs plays an important part in effective administration. Only by keeping an adequate system of records may the county governing body be in a position to plan an intelligent financial program for the county. Moreover, it is only through accounting records that the public may be kept informed about the county's financial operations. The accounting procedures utilized by Alabama counties before 1935 were generally inadequate for the accomplishment of these purposes:

In many counties no records are kept of receipts and disbursements other than the original receipt, if any, which is issued and the original warrants. As a result the board must depend upon the statement of the county depository in approving claims
for payment. In one county the only record kept
was the record of the County Treasurer, who was
also the cashier of the local bank....

Some counties have no record whatever of out-
standing indebtedness and the majority of the
counties give no recognition to current claims
outstanding. With this lack of adequate financial
control is it small wonder that the various coun-
ties find themselves in financial difficulties?
The administrative officers, in order to intelli-
gently control the activities of the counties,
must depend upon information furnished by the
records. With records as inadequate as those
found in some Alabama counties it is almost im-
possible for the officials to make any definite
plan whatever.88

88. Knight, op. cit.

The County Financial Control Act of 1935 dealt ex-
tensively with the matter of county accounting, and
introduced improvement in this area of county financial
administration as well as in county budgeting. Under the
terms of this act, the governing body of each county is
required to provide for the making of a record of the
financial status of the county, which record must be
available to the public for examination and information.
The record is required to be kept current at all times,
and must reflect the true status of all outstanding obli-
gations of the county (both funded and unfunded) and the
estimated income of the current fiscal year. The act
further requires that the record be maintained under the
supervision of the judge of probate or chairman of the
governing body. That officer is also required to perform any other duties with respect to accounting, auditing claims, issuing warrants, and supplying the governing body with information as that body deems necessary for the administration of the financial affairs of the county. The act made the reasonable compensation for the work of keeping the records a charge against the county.\textsuperscript{89}

\textsuperscript{89} Sections 79 and 80, Title 12, \textit{Code of Alabama} (1940).

An act of 1935 also required the installation of a uniform system of accounting and reporting by all counties. The act originally authorized the State Comptroller, with the approval of the State Auditor and the Chief Examiner of Accounts, to prescribe the necessary forms and to furnish copies of the forms to the counties. All county officers who received or disbursed public funds were required to maintain their records and make reports in accordance with the prescribed system and on the prescribed records and forms. A penalty was included in the act, which made violation of the uniform accounting system a misdemeanor; but no provision was made for the supervision or the enforcement of the uniform accounting system.\textsuperscript{90} Responsibility for the administration of the

\textsuperscript{90} Act No. 26, \textit{General Acts of Alabama}, Regular
uniform accounting act was subsequently placed upon the Division of Examiners of Public Accounts in the State Department of Finance. In the year 1947 this division became a separate department under the supervision and control of the Legislative Committee on Public Accounts. Under the management of the Department of Examiners of Public Accounts, the installation of the uniform system of accounting has become complete. There still remains, however, the need for a uniform classification of transactions, since the same charges are sometimes entered differently on the records of the various counties.

**Reporting.** The county governing bodies are required by law to make semi-annual publication in a newspaper published in the county of an itemized report showing the receipts and expenditures of money for the county, specifying particularly the sources from which received and the purposes for which expended. This publication must also show the entire indebtedness of the county, and must specify the amount of bonds outstanding, their character and due dates; and the amount of outstanding warrants, whether interest-bearing or not, and if interest-bearing
the purposes for which the warrants were issued, their rates of interest, and when due and payable.91

91. Section 22, Title 12, Code of Alabama (1940). The reports are required to be published on the first days of April and October of each year.

The law formerly provided that in counties of less than 40,000 population the compensation to be paid for publication of the report should not exceed $100. Thus, publication of the report would be impossible in such counties if the newspapers refused to publish it for the prescribed amount or less.92 As now written the act provides for a maximum of one and one-half cents per word for the publication of this report in counties of less than 40,000 population. Partially as a result of this change, the county governments now almost uniformly publish the required reports.

As published, the reports are generally complete, in that total amounts of outstanding unpaid bills and other accounts payable are included. In many cases, however, they consist of mere chronological lists of receipts and expenditures for each of the various funds in the county treasury. Often the reports cover several newspaper pages, and, it is understood, in some instances they have
composed the entire issue of the local newspaper. In some counties recapitulations are included to show the total receipts and disbursements and the closing balance for each fund; but normally the reports fail to show the total amounts received from each source of revenue, or the amounts expended for each of the various functions of government or objects of expenditure. The statements of indebtedness are classified according to the types of obligations outstanding.93

93. Ibid.; Knight, op. cit. See also Reports of the Attorney General, 1928-30, p. 948, for an opinion concerning the necessity that such reports be itemized.

Not only are the required local reports often unsatisfactory; but there is also in Alabama no satisfactory provision for state reporting of county financial statistics. The Division of Local Finance, in the State Department of Finance, formerly was authorized to collect and publish local financial statistics, but that division was abolished in the year 1951.94 In the same year, however, the State Department of Examiners of Public Accounts was required to furnish the chairman of the governing body of each county an annual fiscal statement of the county,
showing its receipts, disbursements, outstanding indebtedness, and securities owned.95


As published by the Department of Examiners of Public Accounts, the reports present the revenues of the various funds in the county treasury, and show the source of such revenues, whether state, local, or other. The reports also show for each county the total expenditures from each county fund, and contain an analysis of both the funded and unfunded outstanding indebtedness of the county. The report also contains a consolidated statement of county indebtedness, revenues, and expenditures for the fiscal year concerned as well as for the preceding year. However, there is no presentation of revenues by source, other than state, local, or other, and no classification of expenditures by governmental function or object of expenditure.

The Brookings Report of 1932 concluded that one of the great needs of Alabama was a series of annual financial reports which would make possible comparisons between counties and between fiscal years for the same county. The report now required to be issued by the Department of Examiners of Public Accounts fills this need to a considerable degree. But there still remains the
need for reports showing more precisely the sources of county revenues and the functions for which expenditures are made. A report of this type could probably be compiled, at no great expense, from the audit reports of the Department of Examiners of Public Accounts. Such figures would make more meaningful any comparisons among counties, or different years for the same county, and could provide a basis for other desirable analyses of county fiscal operations. The publication of such a report would also provide a more effective method to keep the citizen informed of "what he gets for what he pays."  


County indebtedness. Receipts from borrowing are important to counties, both as a means to finance needed public improvements and to maintain the stability of county services during periods of depression or temporary financial shortage caused by the failure of collections to accrue when needed.  


have no inherent authority to incur indebtedness. "They
must be authorized either by the Legislature or by the constitution to create bonded indebtedness.\textsuperscript{98} Under Section 222 of the Constitution, the Legislature may enact general laws authorizing counties to issue bonds. In pursuance of this section of the Constitution, the Legislature has authorized the counties to issue bonds for a number of specific purposes or improvements.\textsuperscript{99}


99. See, e.g., Section 93 of Title 12, Chapter 2 of Title 4, and Section 98 of Title 17, \textit{Code of Alabama} (1940).

The Constitution contains several provisions which place restrictions on the borrowing power of Alabama counties. Section 94 of the Constitution provides that the Legislature may not authorize any county (or other subdivision of the state) to lend its credit, or to grant public money or any thing of value in aid of any individual, association, or corporation, by issuing bonds or otherwise, or to become a stockholder in any corporation. Under Section 224 of the Constitution, the amount of a county's indebtedness is normally limited to $3\frac{1}{2}$ per cent of the assessed valuation of its taxable property. However, this limitation did not affect any debt existing at
the time of the adoption of the Constitution, if the amount of indebtedness was in excess of $3\frac{1}{2}$ per cent, and if the debt was either created or authorized by laws then in existence. Counties already indebted at that time in excess of $3\frac{1}{2}$ per cent (Montgomery, for example) may incur an additional debt of $1\frac{1}{2}$ per cent, or a total of 5 per cent, of their assessed valuation. Counties were also authorized to issue securities to fund or refund any indebtedness then existing or authorized without regard to the $3\frac{1}{2}$ per cent limitation.

It should be noted that numerous classes of debt are exempt from the application of the constitutional debt limitation. Certificates of indebtedness issued in anticipation of current taxes have been held by the courts not to constitute county debt within the meaning of Section 224 of the Constitution.\footnote{100 Troy National Bank v. Russell County, 291 F. 185 (1923).} However, obligations secured by a pledge of income from subsequent years do constitute debt within the meaning of that section.\footnote{101 Abraslev v. Jefferson County, 241 Ala. 660, 4 So. 2d 153 (1941).} The courts have further ruled that gasoline tax anticipation warrants, where payable solely out of the county's share of the
state gasoline tax proceeds, are not a charge on either the general revenue of the county or on the proceeds of any county levy for special county purposes, and thus do not constitute debt within the meaning of the constitutional debt limitation. Similarly, it also has been

102. In re Opinions of the Justices, 230 Ala. 673, 163 So. 105 (1935); Lyon v. Shelby County, 235 Ala. 69, 177 So. 306 (1937); Isbell v. Shelby County, 235 Ala. 571, 180 So. 567 (1938).

held that obligations secured by the income from privilege license taxes duly levied and pledged, the debts of a

103. Wharton v. Knight, 241 Ala. 218, 2 So. 2d 310 (1941).

public corporation or quasi-corporation, and warrants


issued by the county boards of education are not debts


within the meaning of Section 224.

County indebtedness is also controlled by a constitutional provision which states that all local government bonds proposed to be issued under general laws must first be authorized by a majority vote of the qualified
electors of the county or other political subdivision involved. Section 104 of the Constitution prohibits

106. Section 222.

the Legislature from enacting a local law to permit any county or other political subdivision to issue bonds or other securities until the matter has been approved by a vote of the qualified electors of the subdivision concerned. Exceptions to the requirement for a referendum on the question whether bonds shall be issued include bonds to refund bonds existing or authorized before the ratification of the Constitution and special assessment bonds issued or to be issued for street and sidewalk improvement or for sanitary or storm sewers. 107

107. Ibid.

There is a distinction between county warrants and county bonds, and the issuance of warrants, even though they bear interest and are payable at future dates, apparently need not be authorized by the election required by Section 222 of the Constitution for the issuance of bonds. 108 The Supreme Court of Alabama has stated:

108. See, e.g., Talley et al. v. Commissioners' Court of Jackson County et al., 175 Ala. 644, 39 So. 167 (1905).
There is, hence, a marked fundamental difference between county warrants and the county bonds to which Section 222 of the organic law makes governing reference. The fact that both county warrants and county bonds may be made presentable and payable at a future specified date, and that they bear interest for prescribed periods does not suffice to eliminate the stated characteristic distinctions between them. One, the warrant is an order to pay when in funds; while the other, the bond, is a promise to pay.... The issuance by the authority of a commissioner's court of interest-bearing warrants on the county treasurer, payable at stated times in the future, to pay for public buildings, public roads and bridges, is not the issuance of bonds by the county within the provisions of section 222 of the Constitution.... Not being bonds, the right to issue them /warrants/ for the purpose stated did not depend upon a favorable election held as provided in section 222 of the Constitution.109


Notes made for temporary financing in anticipation of taxes, where the proceeds of the loans are used for the purposes for which the taxes are levied; warrants issued by county boards of education in counties levying special school taxes; and revenue bonds, apparently, are all excluded from the requirement of an election when authorized by general laws.110 On the other hand, the courts seem

110. *Parsons v. City of Birmingham*, 223 Ala. 610, 137 So. 665 (1931); *In re: Opinions of the Justices*, 226 Ala. 570, 148 So. 111 (1933); 228 Ala. 140, 152 So. 901 (1934); 230 Ala. 673, 163 So. 105 (1935), relative to gasoline tax anticipation warrants; and 231 Ala. 152, 164 So. 572 (1935), relative to school warrants.
to construe quite literally the provisions of Section 104(17), which forbid the Legislature to enact local laws authorizing local governments to issue bonds or other securities unless the issuance of the bonds or securities had been authorized, before the enactment of the local law, by an election held in the subdivision concerned.111

111. Newton v. City of Tuscaloosa, 251 Ala. 209, 36 So. (2d) 487 (1948). This case designated as dicta the statement in 230 Ala. 673, above, that securities which are not general obligations of the county are not bonds within the contemplation of Sections 104(17) and 222 of the Constitution. Holding that the term "bonds" in Section 104(17) contemplates "warrants," the Supreme Court of Alabama, in this case, invalidated an act levying a sales tax in Tuscaloosa County and authorizing the issuance of warrants or revenue bonds in anticipation of the tax proceeds.

One purpose of such limitations on the borrowing power of counties is, of course, to prevent the abuse of that power, and to protect the taxpayer against excessive and unnecessary burdens.112 They are fostered also on the grounds that they protect investors in governmental obligations, that they make it impossible for debt service costs to become so high that essential services must be curtailed, and that they act as a brake in regulating the

112. See, e.g., Hagen v. Commissioner's Court of Limestone County et al., 160 Ala. 544, 49 So. 417 (1909); Sisk v. Cargile et al., 138 Ala. 164, 35 So. 114 (1903), for court discussions of the aims of the constitutional debt limitations.
influence of government spending on the economy as a whole.\footnote{113}

\footnote{113. State-Local Relations, p. 117.}

However, debt limitations in the form of specified percentages of the assessed valuation of taxable property generally have not proved satisfactory as methods of controlling local indebtedness. The following disadvantages have been noted in connection with limitations of this type: (1) They do not apply uniformly because assessment ratios vary widely, and this variation does not reflect the credit needs of local governments. (2) There is no clear connection between the capacity to finance debt, on the one hand, and property assessments, on the other; a more accurate indication of fiscal strength is total revenue. (3) These limits usually take no cognizance of overlapping debt. (4) The limits are "perversely elastic"; that is, they expand with increased assessments during periods of prosperity when speculative borrowing should be checked, but they contract with decreased assessments during periods of depression when public spending should be increased. (5) The debt limits lack flexibility—they exert no influence on local borrowing until the limit is reached; then, no matter how great the need, they make further borrowing theoretically impossible. (6) Finally,
debt limits encourage the multiplication of governmental units and hinder the consolidation and enlargement of local areas.\textsuperscript{114}

\textsuperscript{114}. Ibid., pp. 117-118. See, also, works therein cited, and Brookings Report, pp. 226, ff.

The report of the Brookings Institution on Alabama state and county government suggested that more effective control over local debt incurrence could be achieved through the administrative supervision of some state agency, preferably a proposed department of local government, rather than by the use of arbitrary constitutional or statutory debt limits based on assessed property valuations.\textsuperscript{115} The Council of State Governments' Committee on State-Local Relations, in its more recent report, suggests a method of controlling local debt incurrence which involves the establishment of improved debt limits, supplemented with some administrative overview of local borrowing. This committee suggests the use of a debt limit based on a moving average of revenues covering a period of from five to ten years. As indicated above, the improved debt limit would be supplemented by state administrative supervision and assistance furnished by
a central state agency. In order to meet the objection that state supervision cuts into the scope of local discretion, the committee suggests that state administrative supervision as to purpose be applicable only to loans in excess of a certain percentage of the total debt limit. "After three-quarters (for example) of the limit has been reached, it is desirable for loans to be made cautiously and only for the most necessary outlays so that an emergency capacity can be retained. For this upper quarter of the loan capacity, therefore, state review is desirable." 116


The increasing number of local borrowing authorities, the number of constitutional amendments adopted to re-release specified counties from the constitutional restrictions, and the widespread utilization of tax anticipation warrants in lieu of bonds furnish evidence that in Alabama debt limitations based on assessed valuations have proved an inadequate method of controlling local debt. Moreover, the narrow interpretation of the constitutional debt limitations given by the courts probably reflects judicial knowledge of the highly inflexible and restrictive nature of these limitations. The situation in Alabama indicates the necessity for an improved system of regulating local
borrowing. It would seem a desirable step in Alabama to include all county borrowing within the limitations on county indebtedness, and to adopt an improved system of control perhaps similar to that suggested by the Committee on State-Local Relations.

**State administrative supervision.** State administrative supervision or regulation of county fiscal operations in Alabama, so far as it exists, is exercised by the Department of Revenue and the Department of Examiners of Public Accounts. The Department of Revenue is vested with extensive powers of supervision over local assessment procedures and tax officials, and it possesses broad powers of re-assessment and of equalization of assessments.117

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117. Tennessee Valley Authority, *op. cit.*, p. 32. "Ohio, Maryland, Alabama, and Louisiana have regulatory agencies of special potency." *State-Local Relations*, p. 36.

As noted previously in this chapter, this department has been hesitant to exercise the full force of its statutory authority. It has depended primarily upon advice, assistance, and cooperation as means to achieve an improved local assessment. Although its basic approach has remained relatively unchanged, the Department of Revenue has recently expanded its activities in the property tax field. It has prepared an assessment manual for the use
of local assessment officials, and has assisted a number of counties in the conduct of inventory and reappraisal programs.

The Department of Examiners of Public Accounts exercises supervisory powers over county accounting and post-audits the various offices and boards comprising the county governments. This department is authorized to prepare for all the various state and county offices the bookkeeping, accounting, and reporting systems, procedures, records, and forms necessary for the installation of a uniform system of accounting and reporting in such offices. All state and county officers are required to maintain their books, records, and accounts in accordance with the systems and procedures prescribed by the Department of Examiners of Public Accounts. Failure or wilful refusal of any officer to maintain his accounts and records in accordance with the prescribed systems and procedures renders the surety on the officer's official bond liable to a penalty of $50 for each week such failure or wilful refusal continues. 118


The Department of Examiners of Public Accounts is required to examine and audit the records of all state and
county officers at least once in every period of two years, and to report to the supervisory legislative committee, the Legislative Committee on Public Accounts, and the Governor every expenditure or contract found to have been made in violation of law. The audits are made at the expense of the state.\textsuperscript{119} Before 1947, the law did not specify the period to be covered by the audit or the frequency of audits. The practice was to cover the period that had elapsed since the last previous audit, which in some cases amounted to five years or more. The frequency of audits had been increased before 1947, however, through the employment of additional examiners.\textsuperscript{120} The department continues to audit the period elapsing since the last previous audit, and attempts to observe the two-year audit requirement as nearly as its funds will allow.

State administrative supervision of county budgeting is not provided for in Alabama. In its 1932 report on state and county government in Alabama, the Brookings Institution proposed the creation of a department of local government, which, among other duties, would have the authority to revise county budgets in order to keep
appropriations within the limits of available revenue. Although this particular recommendation was not followed, the Department of Finance Act of 1939 required the counties to submit copies of their annual budgets, within 30 days after their adoption, to the Division of Local Finance in the State Department of Finance. The act authorized the division to assist and advise with the counties with respect to their finances, including budgeting, but made no provision for the review or revision of county budgets.

The Department of Finance Act of 1939 did give the Division of Local Finance a measure of supervision and control over county indebtedness. The act required counties and other political subdivisions to submit reports showing their indebtedness, the provision made for the payment of outstanding obligations, and other data concerning their financial condition. In addition, the act required counties to notify the division of proposed bond issues at least two weeks before the sale of the bonds. The division, in its discretion, could investigate the ability of the county to finance the proposed bond issue, and advise the county with respect to the desirability of issuing the bonds. The advice, however, was not binding upon the county.

More significantly, the act contained a receivership
feature which provided that in the event of default for 90 days or more in the payment of local bonds, the Division of Local Finance could take charge of the local revenues applicable to the payment of the bonds, and supervise and control the expenditure of these funds until the default was cured or until a plan for the liquidation of the obligation was formulated and accepted by the local governing body and the holders of three-fourths (in face amount) of the bonds in default.\footnote{121}{See Article 6 of Chapter 4, Title 55, Code of Alabama (1940) for these provisions, now repealed.}

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The provisions of law governing the Division of Local Finance and its duties were repealed in 1951, partially, no doubt, because of the opposition of local officials to the state supervisory program. The division was abolished, and its duties were not transferred to any other administrative agency.\footnote{122}{Act No. 194, Acts of Alabama, Regular Session, 1951, p. 457, abolished the Division of Local Finance and repealed the applicable statutes.}

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tains administrative supervision over a number of aspects of county finance, no state agency is now required or authorized to provide integrated financial supervision. The Department of Examiners of Public Accounts performs
the post-auditing function, and such other functions as the assessment of property, tax collection, and accounting are subject to state administrative supervision. But such important aspects of county finance as budgeting, purchasing, reporting, and debt management still are performed without adequate supervision. Although the latter functions are regulated to some extent by law, the absence of supervision provides an opportunity for the use of unsatisfactory practices in connection with their administration. To be most effective, the supervision of county finance should be administered by a single state agency. The creation of such an agency, with authority to exercise integrated powers of supervision over county fiscal operations, might be expected to exert a highly beneficial influence upon county government in Alabama.
In Alabama, such auxiliary functions of county government as personnel management and purchasing are, for the most part, in their rudimentary stages of development. The fee system remains the primary basis of compensation for county officers. As will be noted below, there are counties in which modern practices have been established for the administration of such functions. In accordance with the traditional method of legislative control, progress in these areas has been the result of local legislation applicable to particular counties. Each succeeding legislative session will no doubt see the extension of modern personnel, purchasing, and compensation methods to additional counties; but the immediate prospects of general improvement do not appear bright.

**Personnel.** The traditional offices of the county government are elective; and most of them are so established in the state Constitution. In the traditional offices, the selection of subordinate personnel is usually the prerogative of the individually elected officers; and questions of control, tenure, and compensation are largely
matters involving solely the officer and his employees. The necessity to recruit specially trained personnel subjects the staffing of the more recently established agencies to considerable state supervision. In order to qualify for federal aid, health and welfare personnel is uniformly recruited on a merit basis. As noted in Chapter IV, the county governing body appoints its clerks, the courthouse custodial workers, the county surveyors, the county engineer, and the members of the county road crews, and fixes their compensation and terms of employment. It may make a limited number of other appointments, including a county attorney and, in some cases, a depository or treasurer. Professional competence obviously is necessary for several of these positions and legislation establishes minimum requirements. But as to others there are no restrictions which limit political appointments.

The selection of personnel under the merit system is required in a few counties in which local acts establishing that system are applicable.¹ This is not to say that

¹ The counties of Jefferson, Mobile, Montgomery, and Tuscaloosa. Acts 1951, p. 363, created a city-county civil service system in Calhoun County, but the act was subsequently invalidated on the ground that, as passed, it represented a material departure from the measure as advertised. Calhoun County et al. v. Morgan et al., 258 Ala. 352, 62 So. 2d 457 (1952). See Chapter II, above, for a discussion of Section 106, Const., which requires publication of the substance of proposed local legislation.
appointments in the remaining counties are always made on the basis of political considerations or favoritism, or that inefficiency is always the rule in counties which do not have a merit system. There are often found in such counties a number of capable, experienced personnel who are retained in their positions because of their familiarity with the duties associated with the office. As Karl A. Bosworth observed, in his study of "Black Belt" County: "A surprising fact, considering the bitterness of election campaigns, is that elected officers usually retain the appointive subordinates of their predecessors.... Clerical assistants, insofar as they exist for the elective offices, have been retained by new officers and relied upon for their knowledge of the offices."^2


It remains true, however, that appointment to the county service in Alabama is based primarily on the spoils system rather than the merit system. The language used by Harold J. Shamberger to describe the appointment of county employees in West Virginia applies almost equally as well to the practices generally employed in Alabama: "Within the limits of available funds each officer determines the number and salaries of his deputies. He may decide to select a few at higher salaries or a larger number at
lower salaries, but generally he is guided by the availability of persons willing to serve, and the salaries they are willing to accept.\textsuperscript{3}

\textsuperscript{3} Op. cit., p. 20. For information concerning the pay scales of employees appointed by the county governing bodies, see James R. Record, "Pay Rates of the County Employee," \textit{The County Officer} (The National Association of County Officials, Washington, D. C., April, 1952), pp. 118-119. The author of this useful article is county auditor of Madison County, Alabama.

As indicated above, some of the larger counties have found it advantageous to provide for the selection of personnel on the basis of merit. Illustrative of the county merit systems is that established in 1949 for the city and county of Montgomery.\textsuperscript{4} At that time a personnel department was created for the government and control of classified employees of the county and of any municipality in the county having a population of at least 5,000 inhabitants. The personnel department is under the supervision of a personnel board, which consists of three members appointed in the following manner: One member by the county governing body, one member by the governing body of the largest municipality located within the county (the City of Montgomery), and one member by a majority of

the circuit and probate judges of the county. Board mem-
ers serve for a term of six years, with vacancies being
filled for the unexpired term in the same manner as
original appointments. The members of the board must be
qualified electors of the county. No person who holds
any salaried public position may be appointed to the
board, nor may any member of the board be appointed to any
salaried position in the service of any county or munici-
pality for a period of one year after he has ceased to be
a member of the board. The board may hold one regular
meeting each month and such special meetings as it deems
necessary. Board members receive compensation at the
rate of $10.00 for each board meeting that they attend.
The presence of two of the three members constitutes a
quorum for the transaction of business.

The functions of the board are as follows:

(a) To formulate and promulgate a set of rules
to supplement the act.

(b) To act in an advisory capacity to the
governing bodies of the county and municipality on
problems concerning personnel administration.

(c) ..., to hear and decide appeals submitted
by any person in the competitive service relative
to any situation connected with his employment
status or condition of employment.

(d) In any investigation or hearing conducted
by the Board, it shall have the power to examine
witnesses under oath and compel their attendance
or the production of the evidence before it by
subpoenas issued in the name of the county or
municipality. Each member of the Board shall have the power to administer oaths to witnesses.

(e) To hold hearings on and adopt or revise the position classification plan. The Board shall adopt a position classification plan and class specifications and revisions thereof, allocate and reallocate positions in the competitive service to classes.

(f) To establish, after consultation with the governing body of the county and the governing body of municipalities and the elective officials of the county, coming within the provisions of /the act/, a pay plan for all employees in the classified service. Such pay plan shall include, for each class of positions, a minimum and a maximum rate or rates as may otherwise in specific instances be fixed by law and such intermediate rates as may be deemed necessary or advisable by the personnel board.

Administration of the department is vested in the personnel director, who is appointed by the board. His salary is fixed by the board, but at an amount not to exceed the maximum rate adopted for classified employees who serve as department heads or departmental administrative officers. Whenever original or promotional appointments in the classified service are to be made, the personnel director certifies to the appointing authority, in the order in which they appear on the eligible lists, the names of persons willing to accept appointment. The number of names certified must exceed by four the number of vacancies to be filled. The appointing authority makes the appointment from the names certified by the personnel director. All original and promotional
appointments involve the successful completion of a probationary period of six months before they become permanent. Any employee in the classified service who has been dismissed, demoted, or reduced in pay, or who otherwise is aggrieved concerning his employment status or conditions of employment, has a right to a hearing before the personnel board. The decision of the personnel board is final, and is not reviewable in any court.

Primarily, variations among the county merit systems concern the manner in which the personnel board is selected. The powers and duties remain virtually the same. In Tuscaloosa County, the board is composed of three members appointed by the Governor. Designed to place the recruitment of personnel on as non-political a basis as possible, the Jefferson County system, which like the Montgomery system is also applicable to the larger municipalities within the county, calls for the appointment of a personnel board by a citizens supervisory commission. This commission, as its designation implies, exercises general powers of supervision over the operations of the personnel board. The commission is composed of the judge of probate, as chairman, the federal
district judge resident in the county, representatives of the county and municipal services, and representatives of designated commercial, labor, educational, professional, civic, and patriotic organizations within the county.  

6. Act No. 248, General Acts of Alabama, Regular Session, 1945, p. 370, as amended. The citizens supervisory commission is a relatively large body, designed to represent a broad cross-section of the community. Usually, the statute designates the president or other chief executive officer of the organization as the representative on the commission.

A supervisory committee also appoints the city-county personnel board in Mobile County. There, however, the supervisory committee is composed of the presiding judge of the circuit court, as chairman, the chairman of the county governing body, the mayor of each incorporated municipality within the county, and other elected officers of the county.  


The support of a central personnel agency is, of course, expensive; and it is obvious that such an agency is beyond the means of many, if not most Alabama counties. There are provisions of general law, however, under which counties may contract with the State Personnel Department for the use of that department's facilities to administer
the county personnel according to merit system principles. Although no county has done so, it is at least possible for the counties to use the state's facilities to gain some of the advantages of a merit system at a reasonable cost. Moreover, the state has acted to extend the benefits of the federal old-age and survivors insurance program to local employees. Broader utilization of the existing opportunities to administer county personnel in accordance with the merit system, the adoption of more realistic pay policies, and participation in the federal old-age and survivors insurance program would go far toward providing the working conditions necessary to attract competent personnel into the local service on a career basis. The counties could help themselves no better than by striving to establish such conditions.

Purchasing. It is generally agreed among students of government that one of the most effective means of promoting governmental efficiency and economy is the adoption of central purchasing methods based on competitive bidding. In most Alabama counties, purchasing is neither centralized

8. Section 299, Title 55, Code of Alabama (1940), as amended.

nor conducted, apparently, on the basis of competitive bids. Ordinarily, each county office or officer acquires such supplies, materials, or services as may be necessary to meet immediate needs, with scant regard for the elemental factors involved in sound purchasing technique. Invoices are submitted to the county governing body, and are ultimately paid when approved by that body. Through the lack of combined purchasing, the county's purchasing power is badly dissipated. No one is charged with stimulating competition to reduce costs; no one is charged with responsibility to see that full advantage of discounts is taken.

Probably the most inefficient purchasing procedures are those utilized by the county commissioners in the acquisition of road machinery, equipment, and supplies. As explained in Chapter VI, each commissioner frequently has charge of road maintenance and construction in one of the commissioners' districts into which the county is divided. Independently of the other commissioners, he makes such purchases as he deems necessary to operate in his own district. In many cases, furthermore, the commissioners divide the available road and bridge funds equally among themselves, with no consideration being given to the overall needs of the county. Obviously, such a system ignores completely the economies which might be
effected through combined purchasing and administration of the highway function on the basis of the county as a whole. In view of the sums expended for road maintenance and construction, considerable savings might be expected to accrue from the adoption of more efficient purchasing methods in connection with this function alone.

Moreover, there is little, if any, state supervision of county purchasing. State law requires the counties to report, not more than once every 30 days, all purchases of personal property amounting to $100 or more to the State Department of Finance; and authorizes the state purchasing agent to make purchases for any county or other local public body.\(^\text{10}\) These provisions, enacted, doubtless, in an effort to achieve a modicum of state supervision, apparently mean little in actual practice. The situation described by Bosworth in his study of "Tennessee Valley" County appears to be typical in regard to their effect:

In accordance with this act Tennessee Valley has, with occasional prompting, submitted monthly reports and supplementary data regarding purchases to the division. The data reported by the county vary in detail with a recent tendency to submit only skeleton information without exact statements of qualities or specification. On four occasions in a year-and-a-half the division has voluntarily suggested to the county that the prices it paid were too high, though in one instance the criticism

\(^{10}\) Section 108, Title 55, Code of Alabama (1940).
was later withdrawn. In the same period officials of the county have requested information regarding State prices less than half a dozen times. Apparently in no case has there been a request that the State division purchase articles for the county. Price information requested by the county—in some cases by individual Commissioners—is apparently used as a yardstick in the direct negotiation of purchases by local officials.\footnote{11. Op. cit., pp. 29-30.}

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A 1953 act requires the presiding officer of the county governing body to audit all claims against the county to determine their factual and legal sufficiency.\footnote{12. Act No. 536.}

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In addition, general law forbids any member of the county governing body to award a contract in which the county is interested to any person related to him, or to employ a relative to do any work for the county or to act as the agent of the member in any work in which the county is interested.\footnote{13. Section 29, Title 12, Code of Alabama (1940). This section does not prohibit the employment of any relative of the county governing body, or any award to a relative of a member, if the member concerned excuses himself and takes no part in the proceedings. See, e.g., Garrison, Probate Judge v. Sumners, 24 Ala. App. 281, 134 So. 672 (1931). Violation of the provision constitutes a misdemeanor.}

\begin{footnotesize}
13. Section 29, Title 12, Code of Alabama (1940). This section does not prohibit the employment of any relative of the county governing body, or any award to a relative of a member, if the member concerned excuses himself and takes no part in the proceedings. See, e.g., Garrison, Probate Judge v. Sumners, 24 Ala. App. 281, 134 So. 672 (1931). Violation of the provision constitutes a misdemeanor.
\end{footnotesize}
where the estimated cost of the work exceeds $250, must be let on the basis of competitive bidding.14


Except for these requirements, general law is almost completely silent in regard to county purchasing practices. However, special legislation has resulted in the regulation of purchasing in a number of Alabama counties. These acts range, insofar as their rigidity is concerned, from a 1953 act authorizing the governing body of Tuscaloosa County to institute such practices as central purchasing and competitive bidding, at its discretion, to laws which specify in considerable detail the purchasing practices to be followed.15 Perhaps typical of the local

15. The act applicable to Tuscaloosa County is Act No. 549, Acts of Alabama, Regular Session, 1953, p. 763.

laws regulating purchasing are those applicable to the counties of Sumter and Chambers.

The act relative to Sumter County designates the county engineer as purchasing agent, and authorizes the purchasing agent, subject to the control of the governing body, to purchase, lease, exchange, or sell any property or services which the county has authority to acquire. Subject to the supervision of the governing body the
purchasing agent may establish standard specifications; operate a central storeroom; require the using agencies to submit estimates of their needs and requisitions for supplies; and promulgate rules and regulations governing the acquisition or disposal of county property. The act requires the utilization of formal purchasing procedures, involving the solicitation of at least three written competitive bids, for all purchases amounting to $50.00 or more. But with the approval of a designated member of the county governing body the purchasing agent may negotiate such purchases informally, soliciting three bids orally, or by telephone, telegraph, or letter.  

16. Act No. 261, Local Acts of Alabama, Regular Session, 1947, p. 187, as amended by Act No. 242, Acts of Alabama, Regular Session, 1951, p. 516. Originally, the figure above which formal competitive bidding was required was fixed at $10.00.

The Chambers County act designates the chief clerk of the judge of probate as purchasing agent, and requires him to purchase all supplies, materials, equipment, and contractual services for the county, and, subject to the approval of the governing body, to issue reasonable rules governing the acquisition of such property and services. The act requires the purchasing agent to solicit at least three written, sealed, competitive bids on all purchases involving an amount equal to $300 or more. The purchasing
agent must award the purchase to the lowest responsible bidder, or he may reject all bids and renegotiate the purchase if the public interest is served thereby. The act further requires the purchasing agent to seek from the state purchasing agent information relative to purchases to be made by competitive bidding, and, if the state price is less than the lowest bid received and if the delivery date is reasonable, to reject all bids and to negotiate the purchase through the state purchasing agent. All bids, with the names of the bidders, must be entered on a permanent record, with the successful bid indicated, along with the reasons for the award if not awarded to the lowest bidder. Provision is made in the act for emergency purchases, and for exempting certain types of commodities and services for which central purchasing is not practicable.¹⁷


Both the Sumter County and the Chambers County purchasing acts, as well as other similar acts, could no doubt profit from amendments which would bring the prescribed procedures into closer conformity with the better purchasing practices. For example, such acts might require the using departments to submit estimates of
requirements to the purchasing agent, annually in advance, as a part of budget estimates; and the purchasing agent to consolidate the requirements, standardizing them if practicable, and, wherever possible, to enter into contracts on the basis of volume purchases. Purchases above a prescribed sum, possibly $200 or $300, could be made by the purchasing agent in accordance with the formal requirements of competitive bidding. Purchases amounting to less than the prescribed sum could be made informally by the purchasing agent, but on the basis of competitive bidding wherever practicable. At the discretion of the purchasing agent, small purchases (those amounting to perhaps $15 or less) might be exempted from the requirements of central purchasing.

In Jefferson County, a central purchasing department was created in 1938 by action of the County Commission rather than by act of the Legislature. Generally considered a highly efficient organization, the purchasing department functions under the supervision of the purchasing agent, who is responsible directly to the County Commission. All employees of the department, including the purchasing agent, are under merit system regulations. No

other county department may make any purchase except in instances of special instructions by the County Commission. The using departments are expected both to consolidate and to anticipate their needs well in advance. Items on requisition may be subject to standardization by the purchasing department. The department makes use of periodic requirement contracts, in order to secure lower prices based on bulk orders. It conducts market research, develops sources of supply, and, in general, operates in much the same fashion as other large, effective purchasing organizations.19

19. Ibid., passim.

Writing in 1952, the president of the Jefferson County Commission commented on the effectiveness of the county purchasing department as follows:

Centralized purchasing, directed by a capable purchasing agent in charge of a modern purchasing department, enables us to use a business approach to resolve our purchasing and supply problems. Equipment and supplies for all departments are purchased through competitive bidding. New methods and processes, alternate materials and late model equipment of many types are studied in cooperation with our engineers and using departments and adopted when practicable.

The County has profited immeasurably by strict adherence to centralized purchasing since it was established. Some of its proven advantages are: lower costs of commodities, reduction in overhead
cost, standardization of specifications, closer accounting control over expenditures, and better purchasing records.  


It is doubtful whether many Alabama counties could afford such a purchasing organization as that found in Jefferson County. Too, it is doubtful whether the use of a county officer or employee as part-time purchasing agent produces the savings which are possible of achievement through centralized purchasing. As noted previously, the counties rarely make purchases through the state purchasing agent. But encouraging or requiring counties to make certain purchases through state facilities is one means by which it might be possible to promote more efficient and economical purchasing for the counties. Such practices are already in existence in a number of other states, notably Texas, New York, and North Carolina.  


such a system would prove advantageous to Alabama is, of course, problematical. However, the subject is worthy of further study, for it is possible that in this direction lie the answers to a number of problems involved in county purchasing.
Compensation methods. Generally, county officers in Alabama receive compensation for their services in the form of fees, commissions, and allowances. In some cases, the fees, commissions, and allowances represent percentages of collections; in others, specific amounts for the performance of specific duties. The Constitution requires uniformity throughout the state with respect to the fees and allowances of county officers, through use of the following language:

Section 96. The legislature shall not enact any law not applicable to all the counties in the state, regulating costs and charges of courts, or fees, commissions or allowances of public officers.

Section 104(24). The Legislature shall not pass a special, private, or local law in any of the following cases: Creating, increasing, or decreasing fees, percentages, or allowances of public officers.

Originally, the compensation of county officers was further regulated by two other sections of the Constitution which prohibited any increase or decrease in compensation during the term for which the officer was elected or appointed:

Section 68. The legislature shall have no power to grant or to authorize or require any county or municipal authority to grant, nor shall any county or municipal authority have power to grant any extra compensation, fee, or allowance to any public officer, servant, or employee, agent or contractor, after service shall have been rendered or contract made, nor to increase or decrease the fees and compensation of such officers during their terms of office; nor shall any officer of the state bind
the state to the payment of any sum of money but by authority of law; provided this section shall not apply to allowances made by commissioners' courts or boards of revenue to county officers for ex officio services, nor prevent the legislature from increasing or diminishing at any time the allowance to sheriffs or other officers for feeding, transferring, or guarding prisoners.

Section 281. The salary, fees or compensation of any officer holding any civil office of profit under this State shall not be increased or diminished during the term for which he shall have been elected or appointed.

These constitutional provisions have failed to secure uniformity throughout the state, as to compensation of county officers, or to prevent increases or decreases in compensation during the term for which an officer was elected or appointed. Various devices to alter the compensation of county officers, which secured judicial approval, included (1) altering the compensation of salaried officers by local law, since, it was held by the courts, a salary was not a fee or allowance within the meaning of Section 104(24); 22 (2) abolishing the office and recreating it in a somewhat different form; 23 and (3) imposing new and additional duties upon certain officers,


23. Dunn v. Dean, 196 Ala. 486, 71 So. 709 (1916).
for the performance of which extra compensation could be allowed during the incumbent's term of office. 24

24. State, ex rel. Brandon et al. v. Prince et al., 199 Ala. 444, 74 So. 939 (1917); Tayloe et al. v. Davis et al., 212 Ala. 282, 102 So. 433 (1924).

The imposition of new and additional duties became such a popular means of providing an increase in compensation during an officer's term that the practice was proscribed in 1952 with the adoption of Amendment XCII to the Constitution, which stated: "Any provisions of this constitution or amendments thereto to the contrary notwithstanding, neither the legislature, nor any county of the state shall, by the imposition of new, different, and additional duties or otherwise, increase, or authorize the increase of, the salary, fees or other compensation of any officer of the state or of any county of the state, who is elected or appointed for a fixed term, during the term for which he is elected or appointed, ..." Decreases in compensation during such an officer's term were also prohibited by the amendment. Nevertheless, offices may still be (and frequently are) abolished and reestablished in slightly modified form merely as a means to increase an officer's compensation during his term.

The fees, allowances, and commissions prescribed by general law for the performance of certain duties accrue
to the officer within whose jurisdiction the duties lie. The officer employs such assistance as he deems necessary, and pays his clerks a salary out of his gross income from fees and allowances. Frequently, the salaries of deputies and assistants are fixed or limited by local law. There is widespread sentiment in Alabama, particularly among county officers, that the fees and allowances paid over to or retained by the officer are his personal property and should be considered as his private business. Consequently, it is sometimes difficult, if not impossible, to determine with accuracy the income of a county officer paid on the fee basis. It is common knowledge, however, that some such officers, principally judges of probate, receive handsome incomes indeed.

It has been estimated, for example, that the gross annual incomes of certain officers in Mobile County, before the adoption of the salary system were as follows: judge of probate, $60,000; tax assessor, $40,000 to $50,000; and tax collector, $40,000 to $50,000.25 The judge of

25. The League of Women Voters of Wetumpka (Alabama), Facts on Fees in Elmore County, pp. 5-6. The following comment accompanied the reply to the query of the Wetumpka League of Women Voters: "Fees paid were not for public information and this answer is based upon rumors and speculation and hence is not necessarily accurate: ..." Ibid., p. 5.
probate of another county has stated that recently he paid into the general fund of the county some $32,000, all of which he had not been paid a salary would have accrued to him. However, he would have had to pay his clerical assistants out of this sum. At the time of his statement he employed in his office five full-time clerks and two part-time clerks, at a combined annual cost of $7,900. Assuming that his outlay for clerical assistance under the fee system would have remained the same, his net income would have amounted to $24,100. Under the salary system his annual compensation amounted to $6,000.

Primarily as a result of popular feeling that earnings had become excessive under the fee system, 18 counties have secured the passage of constitutional amendments which either established or authorized the Legislature to establish the salary system in these counties. At the present time, either all or part of the officers of 17
counties are subject to compensation under the salary system. Local acts of 1945 and 1947 placing certain officers of Walker County on salaries were declared void by the courts, and a referendum measure of 1957 failed of adoption. The Legislature has enacted no subsequent statute to implement the authority granted to it to alter the basis of compensation of the officials of that county. Under the salary system, all fees, allowances, and commissions collectible by the county officials are deposited in the county treasury. The official and his clerical assistants are then paid a salary from the county treasury. 28

28. Amendment L, applicable to Walker County, requires the savings resulting from the adoption of the salary system to be dedicated to the payment of old age pensions in the county. The acts of 1945 and 1947, mentioned above, were invalidated because they failed to provide that any savings resulting from their adoption should be used for the payment of old age pensions. The act of 1957 was made effective not only upon the adoption of a new constitutional amendment authorizing the Legislature to regulate the compensation of the officers of Walker County, but also upon the approval of the proposed amendment by the voters of Walker County. Although the amendment was approved by the voters of the whole state, it failed to carry in Walker County. Consequently, the enabling act did not become operative. For further information regarding the compensation of salaried county officers in Alabama, see the mimeographed publications of the Alabama Legislative Reference Service, entitled "Compensation of Certain County Officers in Alabama."

Although the primary reason for placing county officers on salaries appears to be the desire to provide additional
funds for the county, it is doubtful whether the change would be of much financial benefit to many Alabama counties. It seems to be generally true that clerical assistants are paid higher salaries under the salary system than under the fee system. This tendency could easily result, particularly in the smaller counties, in failure to provide any substantial savings for the use of the county. The adoption of the salary system has undoubtedly produced substantial savings in the larger, wealthier counties. In the smaller counties, however, where the fees are not nearly so large, the payment of really adequate salaries could conceivably cause added expense, rather than produce a saving to the county.

While relatively minor sums are likely to accrue to the benefit of most Alabama counties from the adoption of the salary system, there remain a number of objections to the fee system applicable to all counties, regardless of size. Among the more important of these objections there may be noted the following: Officers compensated on the fee basis may remit the fees due them, and thereby build up considerable political strength; the fee system results in the earning of exorbitant incomes in some counties, and the earning of entirely inadequate incomes in others; it causes county officers to incline toward the performance of the duties for which they are specifically rewarded, to
the exclusion of equally important duties for which no specific compensation is prescribed; and the system precludes the adoption of comprehensive personnel, budgeting, purchasing, accounting, and reporting practices in the county. 29

29. Facts on Fees in Elmore County, pp. 6-8, 22-24; Brookings Report, p. 160.

Contrary to the argument advanced by its proponents that the fee system promotes better administration through closer attention to duty, the efficiency of the county service has not appeared to suffer upon the adoption of the salary system. The fee system is a governmental anachronism, which is subject to increasingly sharp criticism. It should not be supposed, however, that in Alabama the salary system will soon replace the fee system. The change may be accomplished only through constitutional amendment, which is by its nature a difficult process. Moreover, the opposition of county officials to such a proposal is not to be easily overcome. 30

30. A proposal to abolish the fee system was introduced in the 1955 regular session of the Legislature, but the measure was rapidly shelved after a rather vigorous display of opposition by county officials.

has made progress in Alabama, but its general adoption, as is true of progress in other areas of county government,
depends ultimately upon the manifestation of a strong, continuing display of civic interest in its behalf.

**Summary and conclusions.** One of the most unfortunate features of Alabama's system of county government is its continued utilization of outmoded personnel, purchasing, and compensation methods. For the most part, the selection of county personnel remains on a spoils basis. With some exceptions, purchases are made by individual officers and departments, with little regard for modern procedures. The officers of most counties continue to derive their compensation from fees. Perhaps nowhere is there a greater need for reform than in these areas of Alabama county government. Much of the ineffectiveness of county government stems from its traditional indifference to the need for such elemental advances as the merit system, centralized purchasing, and the salary method of compensation. Such progress as has been made in the areas of personnel, purchasing, and compensation methods has taken the awkward form of local laws or constitutional amendments applicable to particular counties. Overall prospects for rapid, statewide improvement in these areas of county government do not appear bright, but improvement there must be if the counties of Alabama are to become effective instruments of local government.
CHAPTER XII
REORGANIZATION AND REFORM IN ALABAMA COUNTY GOVERNMENT

Alabama's system of county government is distinctive; in many respects, unique. But in the basic characteristics of its structure it conforms to the chaotic pattern of county government generally prevailing in the United States. Counties have yet to experience a reorganization movement such as the movements associated with state and municipal governments, and as a result county government is subject to the increasing criticism that its organization and operations are outmoded, inefficient, and ineffective. The critics of county government concentrate their fire on two points: the existence of small, sparsely populated counties which are too poor to provide effective and efficient government; and certain structural defects in county governmental organization. Both criticisms are especially applicable to the counties of Alabama.

Counties in Alabama, as in other states, differ widely in area, population, and taxable resources. Many of them fail to measure up to the standards of wealth and population necessary to perform adequately the functions delegated to them. Consequently, a number of proposals
have been made to secure the creation of local governmental areas with sufficient wealth and population to finance effective government.

**Geographical consolidation.** Physical or geographical consolidation is often suggested as one means by which to establish a more economical and efficient system of local government. The consolidation may involve either the merger of existing counties into larger administrative areas, or the consolidation of the county government with that of a large municipality situated within the county. Its proponents believe that consolidation would reduce the costs of local government in at least two ways: (1) by eliminating duplicate overhead costs, such as salaries, and (2) by providing a work load large enough to realize economies through a more efficient utilization of equipment and personnel.\(^1\) Despite such obvious advantages,


the consolidation movement has not flourished in the American political climate. Constitutional barriers, tradition, vested interests, and other difficulties have proved to be almost insurmountable obstacles; and the movement has remained alive only as a result of occasional successes achieved in isolated cases.\(^2\)

\[2\] See, e.g., Tennessee Valley Authority, *op. cit.*,
Functional consolidation. Because of the practical difficulties involved in securing more economical units of local government through geographical consolidation, it has been suggested that similar results could be obtained more readily through the consolidation of county functions. Through functional consolidation, larger administrative areas are secured by the cooperation of two or more local governmental areas in the performance of particular functions. Functional consolidation has a number of obvious advantages. It avoids frontal conflict with all of the vested interests bound to county units; county governments do not have to be abolished, nor county seats removed. It provides a practicable administrative area for the performance of any given function, and may be readily changed whenever conditions so require. Finally, new vested interests may not be so likely to grow up about such an area as about a county.  


It should be noted, however, that such a procedure is, in some respects, decidedly disadvantageous. The same
areas may not prove suitable for the performance of all the usual county functions; and the development of a number of special areas, each organized on a different functional basis, would only further complicate an already overly complex local governmental structure. Moreover, there are a number of administrative problems which render functional consolidation difficult and often impractical. As it was said by one student of local government:

Arrangements for financing and for managing the cooperative undertakings are necessarily complicated. When a service is jointly conducted by two or more counties or by counties and cities, authority and responsibility are divided; local control, weak enough as it is, becomes hopelessly attenuated. In most of such undertakings, the initial establishment and subsequent operations are largely promoted and controlled by a state department.4


We may conclude, along with this student, that functional consolidation "is an awkward and possibly dangerous device which cannot or should not be extensively applied. It is, at its best, an expedient, not a solution of the problem of local government."5

5. Ibid.
Functional reallocation. Transferring specific functions from the county to the state is another procedure often suggested as a solution to the problem of inefficient county units. Noting that neither geographical nor functional consolidation has proved an effective solution to the problem, advocates of this procedure point out that "a reallocation of functions might be expected to go far toward solving that part of the local government problem which has to do with its financial inadequacy."⁶

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The object of such a reallocation is to establish a system under which counties would "perform only those functions which they can perform most efficiently and economically."⁷

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7. Tennessee Valley Authority, op. cit., p. 133.

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Many governmental functions which were once of purely local concern have now assumed statewide and even nationwide importance, but are still performed by counties. The cost of these functions has reached such proportions that many counties are unable to finance them effectively. By functional reallocation, functions which have become of more than local concern would be transferred to the state. Functions generally considered suitable for transfer to
the state include education, health, relief and welfare, law enforcement, highway administration, tax assessment, election administration, and judicial administration.

Functions considered appropriate for local administration include real estate tax collection, the custody and control of county funds, the adoption of the county budget, the fixing of the county tax levies for all functions, local clerical and recording work, the care and custody of county buildings, recreation, libraries, and rural zoning.

Advocates of functional reallocation point out that by transferring to the state the functions in which the state has an interest (which are also the most expensive functions), counties would be able to finance adequately the remaining functions of a local nature without state aid. 8


It should be pointed out that if functional reallocation contemplates the transfer to the state of responsibility for administering as well as financing these functions, there would obviously remain little for the county governments to do. By transferring to the state responsibility for the administration of the most vital county functions, functional reallocation would destroy
the very substance of local self-government for counties. Those interested in the maintenance of local self-government believe, therefore, that all functions which can possibly be performed satisfactorily at the local level should be administered at that level. For example, the Committee on State-Local Relations of the Council of State Governments reached the conclusion that complete state control is demanded only when "(1) local resources are completely inadequate for the task and (2) the function cannot be performed efficiently even with state aid."9


**Program of the Committee on State-Local Relations.**
The Committee on State-Local Relations suggests the following program to achieve an improved system of local government:

1. Administrative supervision over localities should be largely substituted for the traditional system of state control by detailed legislation, and some reallocation of administrative functions should take place.

2. States should assist localities to secure stable and adequate revenues.

3. State legislatures should grant localities a greater scope of general authority than they now possess.

4. States should foster the enlargement and consolidation of local governments.10

The suggestions of the Committee on State-Local Relations afford a more realistic basis for the recon­struction of county government than either functional consolidation or functional reallocation. A sound program of state fiscal aid could provide counties with a stable source of revenue and enable them, in turn, to provide more adequate services than is now possible. The utilization of such an approach would provide minimum standards of service throughout the state, exploit the most efficient tax base, and prevent the wholesale transfer of local functions to the state. As the committee points out, state supervision is the "inevitable hand-maiden" to the grant-in-aid. But state supervision need not necessarily mean state dictation. Properly oriented, state supervision could consist primarily of service, advice, and co­operation, and, especially when accompanied by fiscal aid, could actually stimulate the counties to greater and more diversified efforts. State control, however, should be exercised as much as possible through state administra­tive agencies. Administrative supervision would free counties from the rigidity of legislative control, and, also, could encourage the attainment of high standards of administration for the internal affairs of county
The danger inherent in such an approach toward the problem of strengthening county government lies in the possibility of perpetuating uneconomic units of government. For this reason, the Committee on State-Local Relations suggests that the states should foster the enlargement and consolidation of local governmental areas.

Geographical consolidation is a necessity if counties are to remain a vital force in the American scheme of government. The movement of functions from the county to the state is largely a result of the fiscal inadequacy of counties to perform properly the services now required of them. By increasing available county tax revenues and equalizing, to some extent, both tax burdens and levels of service, geographical consolidation would go far toward eliminating the necessity for functional reallocation. With state fiscal assistance, the reorganized counties could perform effectively the duties required of them. In Alabama, state aid, supplemented in some instances by federal funds, largely supports a number of functions administered at the county level. Reconstruction of Alabama county government along the lines indicated by the
Committee on State-Local Relations would be, therefore, a normal extension of indigenous developments. Conditions indicate, however, that state-local fiscal relations in Alabama are in need of sharp revision to establish a system of state aid under which assistance may be more nearly related to the needs of the various counties.

**Internal reorganization.** In addition to areal and fiscal considerations, the reconstruction of county government also involves consideration of the problem of internal administrative organization. As noted previously, the reorganization movement has had little effect on county government. Time has wrought few changes in the organization established for the administration of the traditional functions of county government. But the passing years have seen considerable change in the functions of county government. The county was originally established for the local administration of such functions as road construction, the maintenance of a militia, poor relief, recordation of legal instruments, law enforcement, property tax administration, and the administration of justice. Now counties have become responsible for the local administration of such additional functions as education, health, agricultural extension service, and a comprehensive program of public welfare. As the state became more highly urbanized and the cleavage between urban and rural life became less
distinct, the counties have been authorized to provide services once thought to be wholly municipal in nature. Now counties may provide such services and exercise such powers as the maintenance of sewer and utility systems, hospitals, libraries, recreational programs, airports, planning and zoning, and fire protection.

Although there has been some shifting of responsibility for the maintenance and control of functions once considered of purely local importance, the counties of Alabama, from a functional point of view, are now more significant than ever before. But as functions have accrued to county government, nothing has been done to provide a rational form of organization for administering the additional duties. More often than not, the devolution of a new function upon the counties has been accompanied by the creation of a separate agency to administer the function.

As a result of this development, county government in Alabama has become characterized, organizationally, by extreme administrative disintegration. Responsibility for the performance of county functions is scattered among a number of elective officials and a multiplicity of special boards, commissions, corporations, or authorities. Functioning apart from each other, yet loosely connected within a common area of operation, these officers and boards
constitute what is generally called county government.\textsuperscript{13} 

\textsuperscript{13} Adapted from language used by Shamberger, \textit{op. cit.}, p. 21.

As pointed out in an early chapter of this study, the use of the term "governing body" in connection with the court of county commissioners, board of revenue, or other such body, is actually a misnomer. The governing body has little power of supervision over the other county agencies, and, except for highway administration, finds itself in the unenviable position of having to appropriate funds for the support of functions over which it has little control, if any.

The results of this cumbersome administrative structure are obvious. Waste, inefficiency, and obfuscation of responsibility are inevitable under such conditions. Generally, counties have resisted structural reorganization along modern lines, and have clung to ancient, outmoded forms of government. Reorganization, admittedly, is not a panacea for the ills of county government. Nevertheless, a reorganization of county government may be expected to yield substantial results with respect to such matters as economy and efficiency of operations, simplicity of structure, and political responsibility. Higher levels of service could be achieved, and more democratic government
could be realized; and such developments would contribute greatly to a general revitalization of county government.

The county executive system.14 The most serious defects of county organization are (1) its headlessness and (2) its lack of integration. Proposals for county reorganization, therefore, generally suggest the creation of a chief executive officer, and the consolidation of the multitudinous county offices and boards into a relatively small number of administrative departments under his control. In brief, the purpose of reorganization is to establish a unified administrative structure in lieu of the "chaotic, unrelated and overlapping" group of offices and boards now conducting the counties' affairs. The dual objectives of county reorganization (coordination and consolidation) are closely related, and county executive
plans generally call for the consolidation of agencies as well as the establishment of the office of county executive.\[^{15}\]

\[^{15}\] The terms "county executive plans," "executive system," "county executive," and similar terms, are frequently used in this discussion to refer, collectively, to the manager and other plans designed to provide the counties with a chief administrative officer. Where used in this sense, such terms include, but should not be construed to mean (exclusively), the "county executive" plan as distinguished from the "county manager" plan. I believe that the reader will be able to determine from the context, the use of these terms in their general sense and in their specific sense.

The manager plan is the most complete of the county executive plans of reorganization. Under the county manager plan, the voters continue to elect the county governing body. This board appoints a professionally trained manager, on a non-partisan basis, to administer the governmental affairs of the county. The manager plan also involves some revision in the established offices of the county government. The existing offices are consolidated into a relatively small number of administrative departments, the heads of which are appointed by the manager. In Virginia, for example, the county governing body may group the administrative functions of the county into the following departments: finance, public works, public welfare, law enforcement, education, public health, and
16. A separate department of assessments may be set up at the discretion of the governing body. Normally accompanies the adoption of the manager plan. Central purchasing, budgeting, and personnel administration, as well as modern devices for achieving central fiscal control, are essential features of the plan.

In practice, several officials are excepted from the control of the county manager. In Virginia, to use that state again as an example, the county clerk, the sheriff, and the attorney for the commonwealth continue to be elected. Such deviations may be explained partly by rural distrust of a strong executive competent to make all appointments, and partly by the interest of the state in the affairs of these officers. But whatever the reasons for excepting these officers, it is clear that their exclusion precludes the complete unification of responsibility which the manager plan contemplates and which has become common in municipal government.

The county manager plan is a radical departure from the usual form of county organization, and, as a result, the plan has been adopted in only 15 counties in the United States. More progress toward the development of

a chief executive officer has been accomplished within the more traditional framework of county government. There are several alternative plans which have been adopted, including the county executive plan, the executive secretory plan, and the elected executive plan.

The county executive plan involves the creation of an executive position, the incumbent of which is appointed by the governing body but possesses fewer powers and duties than a county manager. In many respects, particularly in connection with budget execution and purchasing, the position of the county executive is similar to that of the manager. In other respects the two positions are quite dissimilar. This dissimilarity is especially noticeable in regard to the appointing power and to budget making. Normally, the county manager possesses an extensive power of appointment. The county executive, on the other hand, is largely confined to making recommendations for appointments, with the appointing power residing in the county governing body. Similarly, the manager is usually authorized to transmit a complete budget to the board, while the executive is limited to the submission of departmental estimates accompanied by recommendations.

The executive secretory plan involves the appointment by the county governing body of an executive vested with authority to perform only a few managerial functions.
Several counties in the United States have adopted a form of elective executive similar to the position of the mayor in the mayor-council form of city government. Some consolidation of agencies has occurred under this plan, and, in such cases, the elected executive possesses the power to make a number of appointments. He may also possess the power of veto, and may serve as presiding officer of the governing body.

A basic objective of county reorganization is to secure for counties a unified administrative structure similar to that commonly found in municipal government. Proponents of the executive system maintain that this objective may be best attained through a program of consolidation and coordination of county administrative agencies under the supervision of a chief administrative officer. By concentrating authority for the conduct of the county's affairs in the county governing body, the county government becomes more simple and easily understood, and, therefore, a more responsible government. Responsible, competent administration is assured through the appointment of a professional executive, who employs qualified people to conduct the county's business, and is accountable at all times to the county governing body. The case for county executives has been succinctly stated in the following language:
Briefly, the case for county executives is that, with them, services will be performed better and more economically and efficiently, and responsibility and accountability will be more effective. Administrative and policy coordination are cardinal objectives in government, and neither can be accomplished without a central executive. Voluntary cooperation is to be encouraged, but the reserved power of direction is always desirable. Applied to county government, coordination would mean that independent elective officers should be abolished along with the administrative powers of special-function boards and that an executive should be created to supervise all aspects of county administration.18


A number of arguments have been put forth in opposition to the county executive movement. Opponents of the movement not only point to the legal barriers to county reorganization along the lines suggested by advocates of the executive system, but also to other, more fundamental factors which, it is argued, either hinder or preclude the adoption of the system. One such argument is that there is no real executive function in county government. Another argument is that the creation of an executive would interfere with existing state-local relationships. "The major public services are statewide, it is alleged, and functions are performed by a partnership between the state and its local units. Coordination of state and county policy with regard to functions now shared would be
increasingly difficult with a county executive, and standards of service built up through cooperation between the two levels of government would be difficult to preserve. State administrative supervision would encounter more obstacles.  

19. Ibid., p. 479. Quoted with permission of the publisher, Henry Holt and Co., Inc.

Other arguments against the executive system emphasize the distinction between rural conditions and urban conditions. Opponents of the executive system contend that rural people are distrustful of a strong county executive officer. It is also argued that the amateur tradition of rural administration would seriously impede the development of a corps of permanent civil servants. Moreover, it is argued, the county's scope of operation is so small that it would have great difficulty in recruiting really qualified persons into the county service. Opponents of the executive system also maintain that a county manager or other full-time executive would find so little to do that he probably would fail to justify his existence. Finally, it is argued that the added financial burden of the system would be more than the rural counties could carry.

Analysis of the opposing arguments results in findings which favor the adoption of the manager or other suitable
form of executive government as the most feasible basis for the structural reorganization of county government. Undoubtedly, there is a need for an executive in county government, particularly in connection with the fiscal aspects of administrative management. The acquisition of authority to perform services of a local nature is one of the most significant developments in county government, and as counties exercise this authority there would be even more for an executive to do. Moreover, there appears to be no sound reason for believing that the creation of a county manager or other executive would unjustifiably disturb the state-local relationship. It is recognized that the county exists primarily for the local administration of state functions, and that state agencies would prefer, of course, to maintain their present relationships with their separate county offices and departments. Nevertheless, the need for simplification and consolidation at the county level is the controlling factor, and, as experience has shown, the existence of local executives need not prevent the exercise of extensive central supervision. As Professors Anderson and Weidner point out, "It is probable that state agencies would find that a county executive would not interfere
with desirable state-county relations but actually would promote better relations."

20. Ibid., p. 481. Quoted with permission of the publisher, Henry Holt and Co., Inc.

The contention that the small, rural counties cannot effectively support such a form of executive government as the manager plan is refuted by the successful experience of Petroleum County, Montana. This small county (population 1,083), after adopting the manager plan in 1943, has been able to effect sufficient economies to pay off its bonded indebtedness and to secure a considerable reduction in taxes. Counties as small as Petroleum should probably be consolidated with other counties, but its success is nevertheless gratifying to the advocates of the manager plan of county government.21 The available evidence indicates that the adoption of the manager plan has resulted in a general improvement of services in other counties using this form of government.

Suggestions for the improvement of Alabama county government. It should be pointed out that relatively recent developments have already produced a great deal of improvement in Alabama county government. Because of the
necessity to conform to federal and state requirements, and the higher degree of professionalization on the part of staff members, much of the improvement is in the administration of the newer functions of county government rather than in the traditional functions. One of the most noticeable characteristics of Alabama county government is the sharp contrast, as to methods and personnel, between the traditional offices and the offices administering the newer county functions. In some cases, because of crowded courthouse conditions, the newer agencies are quartered in a separate courthouse "annex." This condition accentuates differences in staff conduct, office management, and physical surroundings, and renders the contrast between the traditional agencies and the newer agencies especially noticeable.

But of course some improvement has been made, through the years, in the administration of the traditional county functions, primarily as a result of federal and state stimulation. This is particularly true with respect to financial administration and highway administration. Much more could be done to improve the traditional offices of county government without altering the existing administrative structure. Adoption of the salary system of compensation, election of commissioners from the county at large, utilization of the county unit system
of road maintenance and construction, adoption of the merit system, and use of modern methods of fiscal control—all these improvements have been made by some counties, and could be made by others, within the existing structural framework of Alabama county government. \(^{22}\) However, these measures alone, as beneficial as they may be, are no substitute for a reorganization of the structure of county government.

One of the greatest needs of county government in Alabama is a structural reorganization to provide for the establishment of a system of county executive government. The adoption of the commission form of government by two counties, the erection of the clerk of the governing body in several counties to a position comparable to that of executive secretary,\(^{23}\) the devolution of extensive managerial powers, especially with respect to financial matters, upon the judge of probate or other chairman of the governing body—all these developments indicate a groping response to a vaguely felt need for unification. Consider, for example, Bosworth's comments in connection
with the experience of "Tennessee Valley" County: "The once-existing system of Probate Judge leadership in the governing body long since went into disuse. The efforts to create responsible management in the county by local law indicate that at least some have regretted the loss of the old leadership and have wished to recreate it in some fashion. Currently, through the Probate Judge, there is another attempt to cause the governing body to act with general responsibility."\(^{24}\)


It should be emphasized that structural changes are no guarantee of better government. Poorly organized units sometimes perform remarkably well, and properly organized units sometimes perform poorly and inefficiently. In short, factors other than structure tend to influence the efficiency with which an organization performs its work. Nevertheless, structure is important, for proper organization provides a suitable framework for effective administration. There is a tradition of exceptionally successful administration in a number of Alabama counties having the "probate judge" form of government. Because this form of governing body has the effect of centralizing authority and responsibility, it probably provides as effective a form of government as any other for the smaller counties,
where business is conducted on a relatively small scale. It is suggested, however, that permission to adopt a system of executive government would effectively fill the need apparently felt in many Alabama counties for consolidation and central direction. Such permission should be granted on an optional basis, so that the people of each county, by referendum, could adopt an executive plan deemed locally desirable.

Probably the best means of obtaining vital and efficient county government for Alabama lies in the adoption of a program of reconstruction involving (1) encouragement of larger county areas, through adoption of the necessary legal provisions authorizing consolidations by local referenda; (2) establishment of a sound plan of state fiscal aid, under which equalization grants are allotted on the basis of the needs of the various counties, as determined by appropriate formulae; (3) adoption of the constitutional and statutory provisions necessary to enable each county to adopt, after an election on the question, one of several optional forms of county executive government; and (4) adoption of an effective method by which to curtail the enactment of excessive local legislation.

The reconstruction of Alabama county government in accordance with the program outlined above could produce
efficient and responsible county governments with sufficient area, population, and financial resources to support adequately the functions demanded of them. As noted previously, there has developed in Alabama, as in other states, a shifting of responsibility for the control or performance of governmental functions from the county to the state. Only by strengthening county government in some such manner as suggested may the trend toward state centralization be forestalled. It would be a mistake to expect the rapid accomplishment of such a reorganization. The reconstruction of county government is likely to take place only as a result of a great popular demand for improvement, and no great sentiment for change now seems to exist in the state. Nevertheless, the program suggested above indicates the direction in which future developments must move if substantial powers of self-government are to be retained in the counties of Alabama and public services of acceptable quality are to be offered to their citizens.
BIBLIOGRAPHY

PRIMARY MATERIALS

Government Publications

Acts of Alabama.

Alabama Appellate Court Reports. Volumes 19, 24.


Alabama State Department of Pensions and Security (then, Department of Public Welfare), Alabama's Public

Alabama State Highway Department, Annual Report, 1956.


Public Library Service Division, State of Alabama, Public Library Service Division, State of Alabama /a brief description of the organization, powers, and duties of the division/. Four pages, mimeo. 1951 (?).


1936-1938; Quarterly Reports, January - March 1939,  
October - December 1940, April - June 1941, April -  
June 1943, January - March 1944, April - June 1944,  
January - March 1954.

Senate Journal, Regular Session, Legislature of  
Alabama, 1943. Two volumes. Vol. II.

United States Department of Commerce, Bureau of the  
Census, County and City Data Book, 1952 (A Statisti­

United States Department of Commerce, Bureau of the  
Census, Governments in the United States in 1952,  
State and Local Government Special Studies: No. 31,  
Washington: United States Government Printing  
Office, 1953.

Newspapers


The Montgomery Advertiser, May 16, 18, 1956.

Printed Materials

Rutledge, I. B., Former Chief, Bureau of County Aid,  
Alabama State Highway Department, Alabama: Expan­
sion and Refinement of County Governmental and  
Operating Characteristics as Obtained in Inventory  
of Local Road Administration. September, 1950.

Rutledge, I. B., Former Chief, Bureau of County Aid,  
Alabama State Highway Department, State and County  
Relations in the Administration of Local Roads. An  
address delivered at a meeting of the American Road  
Builders Association, Washington, D. C., February  
8-9, 1949.

Skinner, Thomas E., Alabama Constitution Annotated.  
SECONDARY MATERIALS


The Historical Records Survey, Division of Professional and Service Projects, Work Projects Administration, Inventory of the County Archives of Alabama, No. 61: Talladega County. Birmingham: The Historical Records Survey, 1940.


The League of Women Voters of Wetumpka (Alabama), Facts on Fees in Elmore County (n.d.).

Mississippi Economic Council, Is This Your County? A Study of Mississippi County Government with Recommendations. Jackson: Published by the Council, 1953.


Ransone, Coleman B., Jr., Impact of Federal Grants-in-Aid on the Political Structure and Functioning of State and Local Government in Alabama. A report prepared as a part of the study of twenty-five states undertaken in 1954 by The Governmental Affairs Institute, Washington, D. C., for the Commission on Intergovernmental Relations.


AUTOBIOGRAPHY

I, James Dannelly Thomas, Jr., was born in Troy, Alabama, on August 27, 1922. I received my secondary education in the public schools of Montgomery, Alabama, and Lee County, Alabama. I obtained my undergraduate training at the Alabama Polytechnic Institute, Auburn, Alabama. During the period between March 15, 1943, and January 13, 1946, I served in the United States Army. Upon my discharge from the service, I re-enrolled at the Alabama Polytechnic Institute, and received the Bachelor of Science degree from that institution in 1946. I received a research fellowship in American history at the Alabama Polytechnic Institute, and continued there during the academic year 1946-1947. I was granted the Master of Science degree in 1947. I received the Master of Arts degree from the University of Alabama in 1948. I held a teaching assistantship during the period of my study at the University of Alabama, and continued there as an instructor in political science during the year 1948-1949. During the years 1949-1950 and 1950-1951, I was in residence at The Ohio State University, working toward completion of the requirements for the Doctor of Philosophy degree. During this period, I held a teaching assistantship in the
Department of Political Science. I was employed as an Assistant Professor in the Department of History and Government at the Alabama Polytechnic Institute during the year 1951-1952. Since 1952 I have been employed as a Legislative Reference Analyst in the Alabama Legislative Reference Service at Montgomery.